

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 20 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 LAU WONG-FAT, G.B.M., G.B.S., J.P.

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

PUBLIC OFFICERS ATTENDING:

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

THE CHIEF SECRETARY FOR ADMINISTRATION, AND
SECRETARY FOR EDUCATION

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

THE FINANCIAL SECRETARY

THE HONOURABLE STEPHEN LAM SUI-LUNG, J.P.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

THE HONOURABLE DENISE YUE CHUNG-YEE, G.B.S., J.P.

SECRETARY FOR THE CIVIL SERVICE

THE HONOURABLE TSANG TAK-SING, J.P.

SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.

SECRETARY FOR LABOUR AND WELFARE

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

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

THE HONOURABLE EVA CHENG, J.P.
SECRETARY FOR TRANSPORT AND HOUSING

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

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Road Tunnels (Government) (Amendment) Regulation 2009	96/2009
Eastern Harbour Crossing Road Tunnel (Amendment) Regulation 2009	97/2009
Tate's Cairn Tunnel (Amendment) Regulation 2009	98/2009
Specification of Public Office Notice 2009	99/2009
Shipping and Port Control (Amendment) Regulation 2009	100/2009
Merchant Shipping (Registration) (Fees and Charges) (Amendment) Regulation 2009	101/2009
Merchant Shipping (Seafarers) (Fees) (Amendment) Regulation 2009	102/2009
Merchant Shipping (Local Vessels) (Fees) (Amendment) Regulation 2009	103/2009
Tsing Ma Control Area (General) (Amendment) Regulation 2009	104/2009
Practising Certificate (Solicitors) (Amendment) Rules 2009	105/2009
Statute Law (Miscellaneous Provisions) Ordinance 2008 (Commencement) Notice	106/2009

Other Papers

No. 92 — The Government Minute in response to the Report No. 51 of the Public Accounts Committee dated February 2009

No. 93 — Supplemental Report of the Public Accounts Committee on Report No. 51 of the Director of Audit on the Results of Value for Money Audits
(May 2009 - P.A.C. Report No. 51A)

Report of the Bills Committee on Road Traffic (Driving-offence Points) (Amendment) Bill 2009

ADDRESSES

PRESIDENT (in Cantonese): Addresses. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the Report No. 51 of the Public Accounts Committee dated February 2009".

The Government Minute in response to the Report No. 51 of the Public Accounts Committee dated February 2009

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, laid on the table today is the Government Minute (GM) responding to Report No. 51 of the Public Accounts Committee (PAC).

When presenting Report No. 51 on 18 February, the Chairman of the PAC set out in detail the comments of the PAC on the three chapters from the Director of Audit's (D of A) Report, namely Administration of the DesignSmart Initiative, Management of public markets and Reduction and recovery of municipal solid waste. The Administration is grateful for the time and efforts that the PAC has devoted. Details of the Government's response to the conclusions and recommendations in the Report are set out in the GM. Today, I would like to highlight the key measures we have taken in the relevant areas.

First, Administration of the DesignSmart Initiative. Since the publication of Audit Report No. 51 in November last year, the Administration, the Hong Kong Design Centre (HKDC) and the Hong Kong Science and Technology Parks

Corporation have promptly followed up and implemented the recommendations made in the Report. The follow-up actions taken are set out in detail in the GM.

Design is an integral part of our innovative capacity, one that helps our industries move up the value chain and cope with global competition. The importance of design and innovation will only grow as the world faces up to the challenges of the financial crisis. We have to promote the importance of product design in industrial and business processes, and encourage businesses aiming at achieving Original Brand Manufacturing. To this end, we have been supporting the work of the HKDC in the promotion of design. We also launched the DesignSmart Initiative in 2004 to provide support and incentives for raising the awareness of design and encouraging investment in design.

The HKDC at just seven years of age is a relatively young and small organization in comparison with similar institutions around the world. Notwithstanding this, the HKDC has managed to contribute much to the promotion of design both locally and abroad, and greatly helped raise the profile of Hong Kong as a design hub. One of the successful examples is the Business of Design Week. Inaugurated in 2002, the Business of Design Week has become the leading design event in the region and one of the more significant events in the international design calendar. An audit review at this point of the HKDC's development is timely as it provides an opportunity to take stock of progress, so that the HKDC could improve its administration and management to achieve a higher standard of corporate governance.

In the light of the recommendations made by the D of A and the PAC, the HKDC has taken a number of administrative measures to improve its internal control and accounting systems. The Chief Executive Officer of HKDC now reviews all irregularities and non-compliance cases at his regular meetings with the staff. In addition, the HKDC Board has set up an internal audit function, and established an audit committee to ensure operational effectiveness and efficiency, reliability of internal and external reporting, as well as compliance with the applicable laws and corporate governance policies.

Furthermore, the Board of HKDC has decided to adopt a two-tier reporting system for declaration of interests by its directors. A register of Board directors' declaration of interests is maintained and is made available for inspection by public upon request.

We note that the PAC has expressed serious concern on the effectiveness of the role of government officials serving on the HKDC Board. As we have explained during the PAC hearings and in subsequent written replies, the role of the Commissioner for Innovation and Technology (CIT) is to set clear guidelines and to ensure proper utilization of the public funds allocated to the HKDC. The role played by CIT can be seen in various aspects. For instance, the CIT had been playing an active role in monitoring the HKDC's corporate governance, and proactively requested that a study on governance and project administration of the HKDC be conducted to ensure that adequate corruption prevention safeguards were in place.

We should, however, recognize that it is not the role of the directors, including the government officials serving on the HKDC, to engage in the day-to-day management of the HKDC. This executive role should be spearheaded by the Chief Executive Officer of HKDC and his management team, who should carry out the directions and policy guidelines laid down by the Board. As I have explained in the GM, both the HKDC Board and its management team have taken a wide range of measures to address the concerns raised by the D of A and the PAC, and to enhance their capacity in performing their respective roles.

Overall, the Government attaches great importance to sound corporate governance and good management practice of government-funded organizations. The Administration has recently promulgated a circular which sets out the principles of governance framework for government-owned or funded statutory organizations for reference by Directors of Bureaux and Controlling Officers responsible for the management and monitoring of these and similar organizations. Directors of Bureaux and their Controlling Officers will review the governance framework and the checks and balances of the organizations from time to time.

Second, Management of public markets. We welcome the recommendations of the PAC on the improvement of the management of public markets, and have been diligently following up. We fully agree with the need to ensure the effective operation of public markets in meeting the needs of the community and have made continuous efforts over the past years to tackle the problems facing public markets, such as vacancy rates and viability. As planned, the Food and Environmental Hygiene Department (FEHD) has started to conduct utilization and patron opinion surveys since March 2009 on all 79 wet markets. The data collated will form the basis of our review on the positioning,

functions and appropriate level of the Government's subsidization of public market operation. The Administration plans to present the survey findings to the Panel on Food Safety and Environmental Hygiene of the Legislative Council (the Panel) in July 2009.

In view of the difference in mode of operation, the FEHD will review the provision of cooked food centres and cooked food markets in the second half of 2009-2010 after completing the surveys on wet markets. The Administration will present the findings of this review to the Panel.

As regards the mechanisms for market rental adjustment, collection of rates payment and recovery of air-conditioning charges from stall tenants, the Food and Health Bureau and the FEHD are reviewing the mechanisms in consultation with the relevant bureaux and departments, taking into account other factors including the D of A's observation about rental disparity, possible impact on tenants' operations and the prevailing economic conditions. The Administration plans to report to the Panel in July 2009.

We note the PAC's criticisms on subletting of market stalls. The PAC considered that the FEHD should arrange for renewal, instead of extension, of tenancies so that there would be an opportunity to verify the status of tenants. In response to the recommendations of the D of A and the PAC, the FEHD has arranged for renewal of tenancies, requiring tenants to sign new tenancies in person. The FEHD has also introduced various measures to step up control. For instance, upon renewal of existing tenancies, all tenants will be required to display Business Registration Certificates registered in their own names, to keep and provide for inspection employment records of registered assistants and other documents to prove their control over their stalls and business. Breach of the subletting condition will lead to immediate termination of the tenancy agreement. Investigations into suspected subletting cases are underway.

The FEHD is also following up on other D of A's recommendations. For example, the FEHD has launched pilot schemes in selected markets to introduce new types of business or service trades in vacant stalls, thereby reducing vacancy rate and increasing market patronage. The Department has also since February 2009 reduced the upset auction prices of long-standing vacant stalls to attract more potential bidders. As at end April 2009, 552 long-standing vacant stalls were successfully let out.

In addition, the FEHD has drawn up detailed internal guidelines for conducting comprehensive viability studies to assist the planning of new markets. We will ensure that all relevant factors are properly considered and objectively assessed.

The FEHD will organize district retreats later this year to gauge public views and explore ideas on market improvement measures and design concepts of new public markets. We will continue to make best endeavours to ensure our public markets find their niches in a competitive retail market, capable of responding to changes in the retail trend and remaining viable in the long run.

Third, Reduction and recovery of municipal solid waste. The Administration has been committed to promoting waste reduction, recovery and recycling in Hong Kong with relevant measures set out in the Policy Framework for the Management of Municipal Solid Waste (2005-2014) (Policy Framework).

According to previous data, the quantity of municipal solid waste (MSW) generated is highly dependable on our economic situation and population growth. We will continue to work towards the MSW reduction targets laid down in the Policy Framework, and strive to achieve the MSW recovery rate of 50% by 2014. As the demand for recyclable materials is basically determined by the economic situation, the recovery rate of MSW will also be affected. We will continue to make our best efforts in enhancing MSW recovery, keep in view the need to raise the target and keep the Legislative Council informed.

As part of our strategy, we aim to create economic incentives for waste reduction, recovery and recycling. The Environment Bureau and the Environmental Protection Department (EPD) will continue to promote producer responsibility schemes (PRS) under the legal framework of the Product Eco-Responsibility Ordinance. The EPD plans to launch the first PRS on the plastic shopping bag environmental levy in July 2009. This will be accompanied by stepped up educational and publicity campaigns to raise public awareness about the importance of reducing, recovering and recycling waste.

The Administration concurs with the PAC's view about Hong Kong's over-reliance on landfill disposal, compared to other Asian cities. In this connection, the Environment Bureau and the EPD are developing advanced treatment facilities to manage our waste in a sustainable manner, including the Integrated Waste Management Facilities with incineration as the core technology,

the Organic Waste Treatment Facilities and the Sludge Treatment Facility. These facilities will help divert more waste from landfill disposal.

The Administration appreciates the PAC's recommendation for setting more ambitious targets for MSW recovery and the Source Separation of Waste Programme. Although the outlook of waste recovery in Hong Kong in the coming year is highly uncertain due to the current economic downturn, which affects the global demands for recyclable materials, we will sustain our efforts in enhancing MSW recovery and monitor its effectiveness. We will review the target as appropriate and keep the Legislative Council informed of any progress.

Finally, I would like to thank the PAC for its constructive comments and recommendations. These comments and recommendations are useful in ensuring value for money in the delivery of public services. The Administration is pleased to accept these criticisms and comments. As always, we stand ready to respond promptly. Thank you.

PRESIDENT (in Cantonese): Dr Philip WONG, Chairman of the Public Accounts Committee, will address the Council on the Committee's Report No. 51A.

Supplemental Report of the Public Accounts Committee on Report No. 51 of the Director of Audit on the Results of Value for Money Audits (May 2009 - P.A.C. Report No. 51A)

DR PHILIP WONG (in Cantonese): President, on behalf of the Public Accounts Committee (PAC), I table our report No. 51A today. This Report is supplemental to PAC Report No. 51, and contains our findings on the chapter concerning "Emergency ambulance service" in the Director of Audit's report (Audit Report) No. 51.

I now succinctly report the conclusions made by the PAC.

Overall speaking, the PAC considers that the various problems identified in the Audit Report on the provision of an efficient, effective and reliable emergency ambulance service by the Fire Services Department (FSD) may be attributed to the fact that the FSD has not kept management information that

could help to improve its management and use of existing ambulance resources, or that the FSD has not made effective use of such management information which could substantiate its requests for additional resources. Furthermore, the problems identified in the Audit Report may also be attributed to inadequate allocation of resources to the FSD to provide a level of service that can meet the expectations of the community.

The PAC is gravely concerned about whether the emergency ambulance service has achieved the performance target. The PAC finds it unacceptable that since 1999, the FSD has not conducted any review of the 12-minute target response time.

As for the maintenance of ambulances, the PAC considers that it is of the paramount importance to ensure the safety, reliability and roadworthiness of the ambulance fleet. Apart from the public safety point of view, it is mainly out of consideration for the fact that the ambulance fleet is used for emergency rescue operations.

The PAC notes that as the FSD faced a problem of inadequate provision of resources, it was unable to maintain the availability of the ambulance fleet at a level that could meet the public expectation, and the problem had even led to the FSD's being the only disciplined services department joining the Minimum Cost Refurbishment Programme (MCRP). The Security Bureau not only underrated this problem, it even used the FSD's participation in the MCRP as one of the justifications to reject part of its request for ambulance replacement in the 2006 Resource Allocation Exercise (RAE). The PAC is astonished and seriously dismayed at the Security Bureau's way of handling this matter.

Moreover, the PAC is dismayed and finds it unacceptable that the FSD has not proactively monitored and enhanced the availability and reliability of ambulances; the problem of an ageing ambulance fleet had not been addressed opportunely by the Security Bureau and the FSD; and when considering recommendations for replacement of ambulances, the Financial Services and Treasury Bureau mainly made reference to the economic life model and the availability rate of individual ambulances, without paying due regard to the special function of ambulances, that is, providing emergency conveyance of patients and casualties to hospitals, and the impact of breakdown on rescue operations.

President, as always, the PAC has made its conclusions and a series of recommendations in this Report with the aim of ensuring the achievement of value for money in the delivery of public services by the Administration.

Lastly, I wish to register my appreciation of the active participation of and the contribution made by members of the PAC. Our gratitude also goes to the representatives of the Administration who attended the hearings held by the PAC. We are also grateful to the Director of Audit and his colleagues, as well as the staff of the Legislative Council Secretariat, for their unfailing support.

Thank you, President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Registration Requirements for Persons Carrying Out Lift and Escalator Works

1. **DR RAYMOND HO** (in Cantonese): *Lift works include the installation, maintenance and repair work, and so on, for lifts. Lift engineers registered under the Lifts and Escalators (Safety) Ordinance (the Ordinance) are qualified to carry out lift works in private buildings, yet unlike the engineers who carry out builder's lift works, they are not required to be persons registered under the Engineers Registration Ordinance as registered professional engineers within the relevant engineering disciplines. Regarding the registration requirements for persons carrying out lift and escalator works, will the Government inform this Council:*

- (a) *why the registration requirements for engineers qualified to carry out lift works in private buildings are lower than those for engineers qualified to carry out builder's lift works, as well as the major considerations for that;*
- (b) *of the current number of lift engineers registered under the Ordinance; and*

- (c) *given the continuous updating and advancement in technologies of lifts and escalators, whether the authorities have considered amending the legislation to stipulate that only registered professional engineers within the relevant engineering disciplines may register as lift engineers or escalator engineers; if not, of the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, on the quality of lift maintenance, the Administration briefed the Legislative Council Panel on Development and Panel on Housing on 8 December 2008 on the lift regulatory regime with proposals for enhancing lift safety, and undertook to monitor the implementation and effectiveness of the proposed measures. On 24 February 2009, we reported to the Panels on a series of lift safety enhancement measures, including reviewing the existing legislation, stepping up training for workers, improving the Code of Practice for Lift Works and procurement arrangements, as well as strengthening publicity and public education. One of the areas we will review is the qualifications and experience required for registered lift engineers and registered escalator engineers. In this connection, the Administration undertook to consult the industry and professional bodies.

My reply to the three-part question is follows:

- (a) The Ordinance was enacted in 1960, under which the Section on "Registers of lift engineers and escalator engineers and qualifications for inclusion therein" was made in 1987, that is, at a time before the system of registered professional engineers was put in place. When the qualification requirements for lift engineers and escalator engineers were formulated, the qualification and training level requirements most suitable for the regulation of the industry at that time were considered.

The Builders' Lifts and Tower Working Platforms (Safety) Ordinance in question was enacted in 1995 when the system of registered professional engineers had been in place. As such, any person who wants to be a builder's lift engineer must be registered as a professional engineer. He must also possess at least one-year experience in the installation, testing and examination of builders'

lifts as they are installed on uncompleted facades of buildings in construction sites and their heights of movement need to be adjusted to tie in with works progress.

- (b) Currently there are 238 lift engineers registered under the Ordinance. Among them 16 are registered professional engineers.
- (c) Given the continuous advancement in technologies of lifts and escalators as well as higher safety standards, the Administration is reviewing the qualification requirements for engineers registered under the Ordinance. The Electrical and Mechanical Services Department, in collaboration with the industry, Hong Kong Institution of Engineers and International Association of Elevator Engineers (Hong Kong-China Branch), has set up a task force to discuss and advise on the formulation of the qualification requirements. At its first meeting held on 14 April 2009, the task force agreed in principle on upgrading the qualifications, including further study on the introduction of "registered professional engineer" as a qualification requirement for registered lift and escalator engineers.

Subject to the findings and recommendations of the task force, the Administration will draw up a proposal on legislative amendments and conduct consultation exercises to ensure that the proposed amendments will meet the technical requirements, the needs of the industry's development and public expectations. The reasonable interests of practitioners will also be taken into consideration.

DR RAYMOND HO (in Cantonese): *Concerning public safety, lift safety has the most significant impact on the public because some commercial buildings are over 100 storeys tall and some residential buildings have more than 80 storeys. At present, qualified registered engineers are in charge of hoists on construction sites only, but not in ordinary buildings. Lift engineers are currently not fully qualified registered engineers, and we say that they are at "sub-professional". So, there are 238 lift engineers but only 16 of them are registered professional engineers true to their names.*

In 1991, the Government enacted a law on engineer registration and I was Chairman of the Bills Committee on an amendment bill on lifts and escalators a few years ago. At that time, I proposed the addition of registered professional engineers to the Bill, but my proposal was turned down by the Government. I was once trapped in a lift for 45 minutes, so I think that lift safety is very important because everybody though the Government is now saying that a review will be conducted, I am very much worried about how much more time would be taken. The Secretary has also mentioned advancement in technologies and higher standards but these tasks are not performed by registered professional engineers. Hence, I think that amendments must be made. Provided that the trade practitioners will not be affected, should these arrangements be expeditiously amended so that everybody will feel safe when we take the lifts?

SECRETARY FOR DEVELOPMENT (in Cantonese): As I have pointed out in my main reply, we share Dr HO's views. Given the continuous updating and advancement in technologies of lifts, we are conducting a review of the qualifications of registered lift and escalator engineers. Indeed, Dr HO has twice proposed the introduction of the qualifications of registered professional lift and escalator engineers; but after consulting the trade and considerations, we think that, as lifts and escalators require special skills, much importance is attached to the relevant experience apart from academic qualifications. Although the registered lift engineers at present are not necessarily registered professional engineers, it is specified in law that they should have at least five years of working experience in the relevant trade and industries and the Director's acceptance. In other words, besides passing interviews and written tests, they should have practical experience. In any case, as I have just said, we are moving forward in this direction. As to Dr HO's question about the time element, we promise that we will explain to the Panel the result of our study on the legislation at end-2009.

MR IP WAI-MING (in Cantonese): *Having heard the Secretary's reply to Dr HO's question just now, I think that the requirements for registered lift engineers are really lower than usual though the Secretary has said that there is a requirement for five years' relevant working experience. Why does the Government have lower requirements for registered lift engineers to carry out lift*

works in private buildings than those for other ordinary engineers? Yet, there are more stringent requirements for registered lift workers; does it not smack of discrimination against elementary lift workers?

SECRETARY FOR DEVELOPMENT (in Cantonese): There is certainly no question of discrimination, nor is there any question of leniency or stringency. If Mr IP has noticed, I have strongly emphasized the time element in my main reply. As a matter of fact, legislation was introduced in 1960 for the regulation of lift safety; the registered professional engineers at that time did not have specific qualifications and there was no construction worker registration system as there is nowadays. Thus, insofar as qualifications are concerned at that time, those who had taken the relevant higher diploma engineering courses and had apprentice or practical experience could become registered engineers or lift engineers after passing the written tests and interviews, subject to the Director's acceptance.

Given the continuous updating and advancement in technologies of lifts, the qualification requirements of engineering workers should become higher and higher. In fact, we introduced another amendment to the legislation in 1999 and removed the previous provision under which a person without any qualification can become a registered engineer so long as he has 10 years' relevant working experience. Dr HO was Chairman of the Bills Committee then. Hence, this is the right time to conduct another review.

The same also applied to workers. Back in the 1960s, workers could obtain the relevant qualifications by receiving training. If a worker's employer, that is, the lift contractor, was prepared to confirm that he had the relevant experience, he could become a registered worker. As I said earlier, we have a series of lift safety enhancement measures, and one of the reviews of the legislation covers the introduction of an independent registration system for lift workers to give them independent registration status as other construction workers do. They can continue to work in the trade and they will not be subject to employer's confirmation of their status. The same timetable applies to this review and the engineer review that I just mentioned, and we will have the result of the study by end-2009.

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

MR IP WAI-MING (in Cantonese): *I would like to ask another supplementary question*

PRESIDENT (in Cantonese): Mr IP, if the Secretary has already answered your supplementary question and you want to ask another supplementary, you have to wait for another turn.

MR IP WAI-MING (in Cantonese): *All right, thank you.*

DR RAYMOND HO (in Cantonese): *I would like to ask the Secretary a question about the consultation process. I once proposed on behalf of some 20 000 members of the Hong Kong Institute of Engineers the inclusion of registered professional engineers in the Ordinance, but my proposal was not accepted by the Government. At that time, the Government consulted other trade practitioner bodies concerned. Nevertheless, I trust that it should also consult the public because the personal safety of almost everybody would be affected. In my opinion, just consulting the relevant trade practitioner bodies is too lopsided, and I hope the Government will promise not to conduct a lopsided consultation this time around.*

SECRETARY FOR DEVELOPMENT (in Cantonese): In connection with this issue, the members of the task force include the industry concerned, members of the Hong Kong Institute of Engineers and the current practitioners. If Dr HO has noticed, I have just said that the Development Bureau will conduct a public consultation when the task force has expressed their views and come up with directions.

MR IP WAI-MING (in Cantonese): *May I ask the Secretary whether this review will include a comprehensive review of the ordinance on lifts that was enacted in 1960. It is because the present technological requirements for lifts are*

substantially different from those in the 1960s. Our trade union has also raised the point that the ordinance enacted in the 1960s already fails to effectively regulate many lifts now. Will the Government also conduct a comprehensive review of the ordinance on lifts?

SECRETARY FOR DEVELOPMENT (in Cantonese): The review of the ordinance mainly covers three areas: firstly, the content of the question today, that is, the qualifications and experience of registered engineers. We will make reference to the relevant legal frameworks of other ordinances in the process. Secondly, the worker registration system. As I have just said, the qualifications and experience of these two kinds of personnel are extremely important for the assurance of lift safety. Thirdly, penalty. A review will be conducted of these three areas. I trust Mr IP's concerns would be addressed in another context, for example, specifying in the Code of Practice that two workers should work together in a lift on a construction site. This project is already in progress.

PRESIDENT (in Cantonese): Second question.

New Cruise Terminal at Kai Tak

2. **MR RONNY TONG** (in Cantonese): *President, the Government submitted to the Panel on Economic Development of this Council in September last year a paper on the progress and development timetable for the new cruise terminal at Kai Tak, advising that the target completion date for the first package of projects, which included the first berth, was 2013. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the current development of the cruise market within the Asian region, particularly on the Mainland, as well as the comparative advantage of Hong Kong in this regard when compared with other areas in the region; what plan the Government has in place to enhance or maintain such edge;*
- (b) *whether it has assessed the urgency of the various projects in the first package of projects to the Southeast Kowloon development and*

the overall development of Hong Kong, the necessity of completing the first berth concurrently with other projects, and if it is possible to first implement those projects relating to the first berth; if so, of the time needed for constructing the first berth separately; if not, the relevant detailed reasons and justifications; and

- (c) *of the Government's current plan to develop various tourist attractions with historical, cultural and geographical characteristics in Hong Kong, so as to tie in with the development of the cruise industry in Hong Kong; as well as the details and selling points of such attractions?*

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

- (a) The Asia-Pacific Region is an emerging market in the cruise industry, with enormous growth potential. According to our cruise consultant, the capacity placement of the Asia-Pacific Region will continue to grow by 3.2% to 4.9% per annum. We maintain close liaison with the major cruise operators and all are optimistic about the long-term prospect of the Asia-Pacific cruise market. As the financial tsunami has a more severe impact on the American and European markets, cruise operators would be even more eager to develop the Asian market.

With our advantageous geographical location, deep natural harbour and world-class infrastructure and tourism facilities including superior air connectivity with other parts of the world, Hong Kong is highly competitive among the ports in the region. As many international cruise operators regard Hong Kong as a must-visit port, we stand to benefit from the robust growth of the Asia-Pacific cruise market.

We will continue to enhance our hardware and software so as to develop Hong Kong into a leading cruise hub in the region. On the hardware, we are pressing ahead with the new cruise terminal. To

ensure that the first berth will commence operation in mid-2013, we will start the site formation works by the end of this year.

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

- (i) drawing up manpower training plans, increasing on-the-job training opportunities, and encouraging young people to join the cruise industry;
- (ii) formulating and implementing promotion plans for overseas markets, including participation in international cruise fora such as the Seatrade Cruise Shipping Convention in Miami, the United States, and arranging the local travel trade to visit major cruise markets to enhance Hong Kong's position as a must-visit port and develop a platform for industry co-operation;
- (iii) strengthening connections with neighbouring coastal provinces and establishing an information exchange platform to develop a diversified range of unique cruise itineraries;
- (iv) arranging various hospitality activities for cruise vessels visiting Hong Kong with the aim of enriching passengers' experience in Hong Kong; and
- (v) encouraging the local travel trade and cruise operators to work with the mainland designated agents operating group tours to Taiwan to develop products including cruises from Hong Kong to Taiwan, to tie in with the new measure which allows mainland tour groups to travel to Taiwan through Hong Kong by taking cruise vessels homeporting here. This will strengthen Hong Kong's position as the leading cruise hub in the region.

- (b) The Government is pressing ahead with the development of the new cruise terminal to ensure that the first berth can commence operation in mid-2013 as scheduled to satisfy the needs of the cruise market.

The cruise terminal is situated at the southern tip of the runway of the former Kai Tak airport, and will become the most important facility at the Southeast Kowloon waterfront. The development of the cruise terminal and its backup servicing facilities has to be co-ordinated to ensure its smooth operation.

The works of the first berth of the cruise terminal (that is, site formation) includes dredging of seabed, demolition and reconstruction of existing seawall, piling, construction of apron area, mooring and fender systems, apron lighting, water supply and power systems, and so on. We will also construct roads connecting the cruise terminal with the urban area for the convenience of cruise passengers.

Separately, we will take forward a series of other infrastructure works that are programmed for completion together with the first berth on the prerequisite that their construction will not affect the implementation and completion of the latter. These infrastructure works, which are included in the first stage of Kai Tak Development, are located in various areas in Kai Tak and their construction can proceed in parallel without affecting the progress of the first berth of the cruise terminal.

- (c) The Government, in collaboration with the HKTB, has been actively developing and promoting local heritage, cultural and green tourism to diversify our tourist offerings with a view to enhancing Hong Kong's appeal as the preferred tourist destination to all types of visitors, including cruise passengers.

Hong Kong is not short of buildings of historic significance. Through the "Revitalizing Historic Buildings Through Partnership Scheme", the Government has been injecting new life into these buildings, thereby enhancing their appeal to visitors. We will, in

conjunction with the HKTB, consider how to develop these revitalized buildings into tourist attractions.

The HKTB is committed to promoting local historical relics and monuments, including the Ping Shan Heritage Trail and Tai Fu Tai Mansion in Yuen Long, Lung Yeuk Tau Heritage Trail in Fan Ling, Dr Sun Yat-sen Historical Trail, and so on. It also works with the travel industry in packaging the attractions as feature itineraries for visitors. At the same time, the HKTB promotes our traditional culture to visitors in different markets by highlighting our special Chinese customs and festivals, such as the Fire Dragon Dance at Tai Hang during the Mid-Autumn Festival, the blessing ceremony of the Hung Shing Festival in Mui Wo, the Birthday of Lord Buddha celebrations at the Po Lin Monastery, the Cheung Chau Bun Festival, and so on. It also encourages trade operators to include the festivals in their itineraries, so that visitors can experience first-hand the vibrancy of the local customs.

The West Kowloon Cultural District (WKCD) project is an important strategic investment for Hong Kong and the long-term development of arts and culture. The vision of the WKCD project is to develop an integrated arts and cultural district with world-class facilities, distinguished talents, iconic architecture and quality programmes with a must-visit appeal to both locals and visitors. The arts and cultural facilities in the WKCD will include 15 performing arts venues of different types and sizes, a new and forward-looking cultural institution with museum functions called "M+", an exhibition centre and a piazza. After completion, the WKCD would certainly become an attraction not to be missed by our art-loving visitors.

Under the vision of the WKCD project, we will enhance support for local arts groups of various sizes and nurture emerging artists on the one hand, and strengthen our efforts in promoting arts education and building audiences on the other hand. The TC, in collaboration with the HKTB, will continue to work with performing arts groups and travel trade partners to leverage on our arts and cultural products to enrich the choice of activities and travel experience of our visitors.

On promotion of green tourism, we believe that the establishment of a geology park can help diversify the green tourism products on offer in Hong Kong. We actively support the development of the geology park by the Environment Bureau by offering input from the tourism perspective, and will in future promote the park to overseas visitors through the HKTB. Meanwhile, the HKTB will continue its promotion activities under the "Hong Kong Nature Kaleidoscope" with guided eco-tours organized by the travel trade and other organizations, including the Northeast New Territories Islands Hopping Tour, hiking or bird watching tours, and so on. This year, the HKTB adopts a brand new hiking theme and steps up promotion of the scenic attractions in Hong Kong's countryside. It also plans to organize a "Hong Kong Hiking Festival" every autumn with a view to leveraging on the "Hong Kong Trailwalker" event to showcase our city's green treasures.

MR RONNY TONG (in Cantonese): *President, I am rather disappointed with part (b) of the Secretary's main reply.*

President, the Kai Tak project is an integrated development project and all major newspapers have reported today that the Government has received nine tenders but the Secretary did not tell us clearly that among the nine tenders, whether the tender for the berths and the other development projects is invited under the same contract. If so, are there specific orders for construction and contract terms in place to ensure that the completion of the berth facilities will not be delayed by the other development projects? I wish the Secretary would explain more clearly in this regard.

SECRETARY FOR DEVELOPMENT (in Cantonese): I believe the so-called nine tenders mentioned by Mr TONG refer to the so-called proposals invited for the works for the cruise terminal building which will help us to identify some developers for an open tender to be called afterwards. The entire Kai Tak project is an enormous one, covering 323 hectares of land. Earlier, we briefed the Development Panel that the development of Kai Tak will proceed in three groups of projects, with the first group to be completed in 2013. To tie in with the commissioning of the first berth of the cruise terminal in 2013, it can be said that projects under the first group are basically geared for this cruise terminal, but

some other projects have also been included in the first group. Just as Secretary Rita LAU said earlier, those projects can proceed in parallel, for instance, the construction of public housing or schools to the north of the apron. Since these works will not directly affect the progress of the cruise terminal, we have therefore included them in the first group. In short, the first group of the Kai Tak works projects can fully dovetail with the priority commissioning of the cruise terminal.

MR RONNY TONG (in Cantonese): *Is the Secretary saying that the tenders are in fact separated? If so, the tender contract for the berths will not be affected by the contracts of the other tenders. Is this what the Secretary meant?*

SECRETARY FOR DEVELOPMENT (in Cantonese): Maybe I do some further explaining. The completion of the berths of the cruise terminal involves tendering for two major contracts, with the first being that for site formation. Tendering in this respect is yet to proceed, and we will invite tenders later. Once the cost is known, we will apply for funding. The second is the contract for the cruise terminal building. Tendering for these two projects will be separated.

DR SAMSON TAM (in Cantonese): *President, the cruise terminal will come into service in 2013. With regard to manpower training and on-the-job training, may I ask the Secretary what manpower training is offered by the tertiary institutions at present? What new arrangements are there?*

PRESIDENT (in Cantonese): Which Secretary is to reply?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Manpower training is a very important software which we should work on. Therefore, under the existing retraining programmes of the various institutions, we have designed the training courses. As we particularly hope that young people can join the tourism industry, we have started work in this regard.

MS MIRIAM LAU (in Cantonese): *As mentioned in part (a) of the main reply, the cruise industry really attaches great importance to the the Asia-Pacific cruise*

market, and we know that many leading cruise operators, such as Crystal Cruises or the largest cruise operator in Europe — Costa Cruises — are interested in developing business in the Asia-Pacific Region. Therefore, basically, many cruise operators have confidence in the long-term development of the cruise market in the Asia-Pacific Region, but many large cruise operators are concerned about the lack of hardware in Hong Kong. The main reply also mentioned that the first berth of our new cruise terminal will be completed in 2013, but, President, you have joined us in an official visit to Guangdong Province and when we arrived in Shenzhen, we learnt that the new cruise terminal in Shenzhen would be completed in 2011. My supplementary is: In face of the present enormous development potential of the cruise market and the development of neighbouring cruise terminals, how can Hong Kong seize the opportunity to demonstrate our edges before the completion of the first berth of the new cruise terminal — four years from now — so as not to lose out to the neighbouring regions?

PRESIDENT (in Cantonese): Which Secretary is to reply? Secretary for Commerce and Economic Development, please answer.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): At present, Hong Kong also has facilities for the berthing of cruises, and as Ms LAU just said, many larger cruise operators have used Hong Kong to develop cruise services in the Asia-Pacific Region. Regarding the existing arrangements, that of course hinge on the capacity of the cruise terminal. Apart from the Ocean Terminal, we can also arrange for cruises to dock at the container terminals. Moreover, berth facilities are also available mid-stream. Thus, so long as the sizes of the cruises can be accommodated, we will strive to have the hardware for them to berth. Furthermore, we have also introduced some administrative measures, for example, apart from the usual uses, we have streamlined the procedures for the locations to offer services for the berthing of cruises. All these are specific measures meant for Hong Kong to develop the cruise industry and they have been implemented. Through these arrangements, we have been continuously learning from the experience and views of tourists through the cruise operators and the HKTB to co-operate in all aspects, so that the best arrangements will be made for tourists.

MRS REGINA IP (in Cantonese): *I just heard the Secretary say that Hong Kong has edges in developing a cruise terminal in the Asia-Pacific Region, but I have heard some people in the industry say that our edges are not really substantial. When compared with the European and Caribbean cruises, if a Hong Kong cruise is to travel to Sanya which is the closest, it will take one day; if it travels to Shanghai, the journey will be longer; and a journey to Taiwan will run into the rough seas. For Hong Kong to become the best hub, tourists had better embark at night, enjoy their dinner, have a sleep, wake up to a new place for visit the next day, and visit different places each day. Therefore, may I ask the Secretary, for our future cruise terminal, which is the closest place to visit? How long will the journey be? Will there be rough seas? Besides Shenzhen, how are we to compete with Shanghai?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): First, the itineraries for cruises are of course decided by cruise operators depending on market demand, and the Government has no part to play. If we look at the experience of countries around the world in the development of the cruise industry, all cruise services have to design their itineraries according to seasons and the actual conditions at sea. Therefore, even for the very mature European and American markets, they do not provide cruise services all year round. Rather, services are provided seasonally and mainly fall between October and April. We have great potential in developing cruise services in the Asia-Pacific Region because at present, we can see that the spending power of the entire Asia-Pacific Region is increasing ever. We have actually begun co-operation with four coastal provinces to see how we can jointly develop some cruise routes. However, it is ultimately for the cruise operators to decide on the routes in accordance with the demand of their customers and the actual situation.

PRESIDENT (in Cantonese): We have spent over 19 minutes on this question. The last supplementary.

MR CHAN KAM-LAM (in Cantonese): *President, we all know that works at Kai Tak are commencing in phases but when the first berth is completed in 2013, the whole of Kai Tak in fact is still a work site. I have a question for the Secretary for Development. Compared to the other infrastructure facilities, the time required for building a metro park and a stadium is shorter. In view of*

this, would such works be commenced as soon as possible so that when tourists come to our metropolitan city in 2013, they will see a green environment and have a nice resting place?

SECRETARY FOR DEVELOPMENT (in Cantonese): I of course appreciate the aspiration Mr CHAN has for Kai Tak, but as we have explained to the Development Panel earlier, since Kai Tak is a mammoth development project, works must proceed in accordance engineering considerations. Our present planning is for the project to be developed in three groups, but some facilities, such as the sports facilities mentioned by Mr CHAN, are impossible to be included in the first group. That said, we will keep on reviewing and if possible, we will strive for it. For instance, at the moment, the cruise terminal building will not be completed until after 2013, thus, the Development Bureau and the other works departments are actively studying whether the building can be completed earlier. Therefore, this is why Mr TONG said earlier that initial tendering for some works has commenced.

PRESIDENT (in Cantonese): Third question.

Training Members of Administrative Service to Work in Financial Affairs Stream

3. **MRS REGINA IP** (in Cantonese): *President, under the existing management policy for the Administrative Service, Administrative Officers (AOs) are posted, on average in every two to three years, to different posts in various bureaux and departments. There are comments that as a result of this practice, the professional knowledge in financial affairs and interpersonal network of the AOs working in the Financial Services and the Treasury Bureau lag far behind those of the staff who have worked for a long time in the Hong Kong Monetary Authority and the Hong Kong Mortgage Corporation Limited. As a result, the ability of the Bureau to manage the organizations within its purview is open to doubt, and the market also lacks confidence in the leadership of these financial officials. In this connection, will the Government inform this Council whether:*

- (a) *it will consider launching a new training scheme for AOs to arrange those AOs who are interested in working in or will be posted to the*

financial affairs stream to work, before such postings, for two to three years in local banks or other local financial institutions, or even in financial institutions in London or New York, or international financial organizations such as the World Bank and the International Monetary Fund, in order to help them broaden their horizons and enhance their professional knowledge and experience in financial affairs; and

- (b) *it will select, through the aforesaid training scheme, suitable officials and arrange for their postings within the financial affairs stream only, so as to train a large number of professionals who are knowledgeable in financial affairs and familiar with the market operations for the Government?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, the Administrative Service is a cadre of multi-skilled administrators. Posted around different Policy Bureaux and departments at regular intervals, Administrative Officers (AOs) assist in policy formulation, co-ordination and monitoring of the implementation of policy initiatives, and ensuring the effective use of public resources to provide quality public services to the community. AOs need to display broad perspectives, meticulous planning and strategic thinking. Not only are they required to possess a good understanding of their respective policy areas, they should also be alert and sensitive in listening to the views of different stakeholders, members of the public and members of councils of different levels so that they are able to approach policy work with the overall public interest in mind. In formulating policies that contribute to the long-term development and benefits of Hong Kong, AOs need to work closely with members of professional grades in the Government with relevant organizations (such as various regulatory authorities and statutory bodies).

To ensure that AOs are exposed to different facets of work and possess relevant experience to assist in formulating and taking forward policies in a holistic manner, our general policy is to subject AOs to career postings at regular intervals to different positions — including Policy Bureaux, departments, district offices and representational offices in the Mainland and overseas, and so on. We will place suitable officers in different postings, taking into account the specific requirements of individual posts, the experience and attributes of

individual officers, long-term development of grade members, as well as the overall exigencies of the Administrative Service, and so on.

In view of the complexity of AOs' duties, we attach great importance to the training of AOs. We have launched a Training and Development Framework for AOs, providing a series of training programmes catering to the needs of officers at different ranks. The training programmes cover four main areas, namely (1) governance and public administration, (2) national studies, (3) communication and media skills, and (4) leadership and personal effectiveness. In addition, we offer induction training and overseas executive training programmes to AOs to ensure that they receive timely and suitable training to develop their full potential at various stages of their career.

The Civil Service Bureau also runs a Part-time Studies Sponsorship Scheme to support AOs to pursue degree programmes that are relevant to either the general duties of AOs or to specific job requirements.

We have also set up a Private Sector Secondment Scheme, under which AOs are seconded to work in private sector organizations, and employees of the latter are attached to the Government. Through this Scheme, AOs develop a deeper understanding of the culture and mode of operation of the private sector, which in turn will enable them to display more comprehensive and thorough considerations when assisting in formulating and taking forward public policies in future. Organizations that have participated in the Scheme include those in the banking and securities sectors. Furthermore, we also organize staff exchange or secondment programmes with overseas government and regional organizations in a bid to broaden AOs' international perspectives. Our target partners include the Asian Development Bank, the European Commission, the Singaporean Government and the Asia Pacific Economic Cooperation Secretariat, and so on.

Like their counterparts working in other policy areas, AOs working in the Financial Services Branch of the Financial Services and the Treasury Bureau (FSB) maintain close communication and liaison with industry and other players. AOs in this Branch also participate in the work of various statutory and advisory bodies. They exchange views with various stakeholders on policy matters or issues concerning market operations, assess the needs and evolving demands of the financial markets and service providers, keep abreast of developments in local and overseas markets, review market operations and put up practical and timely

recommendations to the Secretary for Financial Services and the Treasury from the perspective of safeguarding overall public interest.

In addition, the FSB arranges or sponsors AOs at different ranks to take part in conferences, seminars and training programmes organized by local and overseas tertiary education institutions, professional and statutory bodies, professional training service providers, the Civil Service Training and Development Institute, as well as other government departments and international organizations. Through these activities, AOs acquire up-to-date information from local and overseas experts relating to market development, best practices, and policies and legal measures in other jurisdictions.

In placing AOs to work in the financial services or other policy purviews involving relatively technical subjects, we will make flexible and appropriate manpower deployment arrangements, while balancing the overall operational requirements of the Government and the long-term development of individual officers. For example, where circumstances permit, we will give priority consideration to posting officers who had previously worked in the FSB back to the Branch to assume responsibilities at a higher level. Such arrangement makes good use of the personal experience and knowledge accumulated by individual officers in a relatively specialized policy area, while allowing them to apply valuable experience gained in other policy areas and inject new thinking into the work of the FSB.

In conclusion, the generalist training of AOs, including experience acquired from other policy areas, is still essential in ensuring that they display comprehensive and macro perspectives in balancing the interests of different quarters in the financial services sector. The insights and experience they accumulate in the financial services policy area will also be useful to their work in other policy areas in the future. We will review from time to time the training and development for AOs in order to ensure that the Administrative Service is able to live up to the operational requirements of a wide range of policy portfolios.

MRS REGINA IP (in Cantonese): *President, the lengthy main reply of the Secretary has evaded the fact that since the establishment of the Hong Kong Monetary Authority (HKMA) and the Hong Kong Mortgage Corporation Limited,*

the SAR Government has lost more than 10 outstanding AOs. This represents a one-way brain drain of these high-salaried AOs to non-government organizations. Currently, none of the AOs in the Financial Services and the Treasury Bureau has any market experience. So, they do not compare favourably with their subordinates in terms of expertise and market experience and this is also unfavorable to the Government.

In her main reply, the Secretary mentioned the Private Sector Secondment Scheme. I also remember that there was such a scheme in the past, under which employees in the private sector would be seconded to the Government and vice versa. But it seems that the Scheme has stopped for some time. Would the Secretary consider reactivating the Scheme so that more AOs could have the opportunity to work in banks or securities companies so as to learn what are credit-linked products? Also, will the training of AOs be stepped up by sending them to work as trainees in some overseas institutions such as the International Monetary Fund before joining the Financial Services and the Treasury Bureau upon return to Hong Kong in order to enhance their professional knowledge and market experience?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, we will continue to work with the private sector to explore opportunities of mutual staff secondment. In the past five or six years, we have been working with the banking sector, securities industry and the airlines in carrying out staff secondment programmes and we will continue with such efforts.

Currently, an AO grade officer has been seconded to the Asian Development Bank under a two-year programme. In this regard, as proposed by Mrs Regina IP, I will continue to explore the possibility of staff exchange or secondment with other international or regional organizations related to financial services.

MS AUDREY EU (in Cantonese): *President, the thrust of Mrs Regina IP's main question today is whether or not the AOs have enough experience in monetary or financial aspects to monitor the HKMA, which is regarded as an independent kingdom by many people. Therefore, may I ask the Secretary why only one name, that is, Norman CHAN, is being mentioned as the successor of Joseph YAM after his retirement in people's speculation, although there are lots of AOs*

and financial officials in Hong Kong? Why is it not possible to conduct an open recruitment exercise? Does this not indicate that the Secretary should make more efforts in respect of the training of AOs?

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, the HKMA's employees are not part of the Civil Service. The appointment, removal and recruitment of its Chief Executive are not directly related to the Civil Service or AOs. So, I think what I can do is to relay Ms EU's concerns to the relevant authorities.

MS AUDREY EU (in Cantonese): *The Secretary has not answered my supplementary question. I asked why only one name was mentioned as the successor of Joseph YAM in people's speculation. Will an open recruitment exercise be considered? President, this is also part of my supplementary question which I raised just now.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, in the case of civil service posts, an open recruitment exercise will generally be conducted for "entry grades" under our policy. If it is a promotion post for civil servants, an internal promotion exercise will be conducted under our policy.

The post of Chief Executive of the HKMA does not fall within the civil service establishment, so, I cannot, and I am not in a position to answer Ms EU's question. I can only refer the question to the relevant authorities.

PRESIDENT (in Cantonese): Ms EU, as the main question is about talents in the Financial Services and the Treasury Bureau and the training of AOs, the officer responsible for answering this question is the Secretary for the Civil Service. However, your question now is about recruitment by the HKMA, I believe this is outside the scope of the main question.

MS AUDREY EU (in Cantonese): *Yes, President, I have brought my supplementary question into the scope of the main question by mentioning the training of AOs. If the relevant training is sound, there will certainly be*

expertise in this field and the present situation will not arise, that is, only one successor's name has been heard so far since the announcement of retirement of the incumbent Chief Executive. Neither an open recruitment exercise will be conducted. So, I asked the Secretary: Why will an open recruitment exercise not be conducted? Does this indicate that the training of AOs is far from satisfactory? Otherwise, the post will be open to all and more candidates will be available for selection. President, this is why I think my supplementary question falls within the scope of the main question and I have considered this point. My supplementary question absolutely falls within the scope.

Of course, I also understand that from the Secretary's perspective, she may not be able to answer the question about open recruitment, and she has also undertaken to refer the question to the relevant department. I accept the Secretary's reply and hope that she will answer the question in writing as to whether an open recruitment will be conducted. (Appendix I)

MR LAU KONG-WAH (in Cantonese): *President, in the fifth paragraph of the main reply, the Secretary mentioned secondment. She has also mentioned staff exchange and secondment with overseas governments. Can she cite some examples of staff exchange with overseas governments in the past? With the increasingly close tie between Hong Kong and the Mainland, has the Government considered or will it consider conducting staff attachment or secondment between Hong Kong and the Mainland?*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): *President, currently we have two major schemes. Under the first scheme, some AOs will be seconded to provincial and municipal government agencies for around three to nine months. (Appendix 1) In the past, an AO had worked in the personnel department of the Hangzhou Municipal Government. A staff exchange programme will be implemented every year between Hong Kong and four mainland authorities including Beijing Municipality, Hangzhou Municipality, Shanghai Municipality and Guangdong Province. In each exchange, 10 to 15 civil servants from Hong Kong will be sent to the Mainland, while our counterparts will also assign 10 to 15 officers to work in various Hong Kong departments for around three months in another period. The programme will also cover other professional grades in the Civil Service, apart from AOs.*

Under such a programme which is permanent in nature, one or two batches of civil servants will be seconded from Hong Kong to the Mainland every year and our counterparts in the Mainland will do the same.

Apart from the Mainland, colleagues from the AO grade have also been seconded to the European Commission, that is, the governmental organizations of the European framework. Recently, two AOs have participated in the staff exchange programme between Hong Kong and the Singaporean Government. The AO from the Singaporean Government is now working in our FSB, while another one is working in Ministry of Information, Communications and the Arts. Currently a colleague from the AO grade is working as the Director of Finance in the Asia-Pacific Economic Cooperation Secretariat and the post will last for three years. Today, a colleague from the AO grade is also working as the Advisor to a Director in the Asian Development Bank for a two-year period.

Therefore, we will continue to examine whether more efforts can be made in this direction. We will also contact new regions or overseas governments in a bid to expand the network as far as possible.

PRESIDENT (in Cantonese): Last supplementary question.

MR ALAN LEONG (in Cantonese): *President, from the ninth paragraph of the Secretary's main reply, we can see that the Government seems to preserve the generalist training of AOs so that the civil official system will remain unchanged. However, I would like to ask the Secretary a question: When humanities, literature, history and philosophy are on the decline in the university, will such generalist training lead to difficulties in the recruitment of AOs? Does this go against the Government's wish to uphold the civil official system? I would like to hear the Secretary's response.*

SECRETARY FOR THE CIVIL SERVICE (in Cantonese): President, AOs are recruited every year and as far as I can remember, we have just finished a recruitment exercise. The new recruits are supposed to report for duty starting from next month. In the recent recruitment exercise, we have appointed a total of 24 AOs (Appendix 1) who will join the AO grade soon. If an analysis of their

first degree is made — because some have already attained a master's degree when joining the Government and my analysis is purely based on the bachelor's degree — as far as I can recall, among the 24 new colleagues, (Appendix 1) one third hold a Bachelor's Degree in Business and Finance. In addition, as far as I can remember, around four of them hold a Bachelor's Degree in Public Administration Social Services, two a Bachelor's Degree in Laws and one a Bachelor's Degree in Engineering. As for the others, I cannot remember. With this analysis, I hope Members will understand that we do not place any special emphasis on any subjects when recruiting candidates we consider suitable to fill vacancies of AOs. What we look for is the candidates' critical thinking, communication skills, personality, as well as their potential interpersonal skills and capabilities.

In the recruitment process, their knowledge in specialized subjects will not be tested. I think this is a non-direct way to attract people from different disciplines or social strata to join the Government as AOs.

PRESIDENT (in Cantonese): Fourth question.

Under Secretaries and Political Assistants

4. **MS AUDREY EU** (in Cantonese): *President, it has been almost one year since the first batch of the 17 politically-appointed Under Secretaries and Political Assistants assumed duty in May last year. Yet, the outcome of a survey published by the Public Opinion Programme of the University of Hong Kong in April this year indicated that over 90% of the respondents were not able to name any one of the Under Secretaries or Political Assistants, with the Under Secretary for Constitutional and Mainland Affairs and the Under Secretary for Food and Health, as well as the Political Assistants to the Secretary for Financial Services and the Treasury, the Financial Secretary and the Secretary for Home Affairs receiving zero recognition. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the work performance of the various Under Secretaries and Political Assistants, including if they can perform the functions of assisting the Government in gauging public sentiments and explaining government policies to the general public;*

if so, of the details; and whether there are measures in place to raise their level of recognition; if so, of the details; and

- (b) *of the details (including the names, organizers, dates and contents) of the activities, set out in tables, attended by each of the Under Secretaries and Political Assistants since assumption of duty, broken down by the nature of these activities (namely visiting the districts in person to listen to public opinion, liaising with members of political parties and community groups, attending media interviews to explain government policies to the public, attending meetings of this Council and its committees, as well as taking part in policy forums)?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Under Secretaries are responsible principally for assisting Secretaries in undertaking the full range of political work, including the handling of Legislative Council business, and deputizing for the Secretaries during the latter's temporary absence.

Political Assistants are responsible principally for providing political support and input to the Secretaries and the Under Secretaries, and conducting the necessary political liaison at the instruction of the Secretaries and the Under Secretaries, including the liaison with the media and various stakeholders.

I set out below some key areas to illustrate the actual work of the Under Secretaries and the Political Assistants in various aspects since the time they have assumed office.

Legislative Council business

- With effect from the 2008-2009 Legislative Session, the Secretaries or the Under Secretaries have normally attended regular meetings of the relevant panels of the Legislative Council. Subject to circumstances and requirements, the Under Secretaries have also attended other meetings of the Legislative Council, including the meetings of the Finance Committee and various subcommittees. These are important forums for the Government to explain its policies and to secure support for its initiatives.

- The Under Secretaries have deputized for the Secretaries to respond to Legislative Council questions and handle motion debates during the latter's temporary absence. Moreover, during the period when the Under Secretaries are acting as Secretaries, they have exercised statutory powers vested in the Secretaries.
- In respect of Legislative Council business, apart from participation in formal meetings, the Under Secretaries and the Political Assistants have also taken part actively in the lobbying work to seek Members' support for government policies.

District work

- As part of their role in reaching out to the community and gauging public views, the Under Secretaries chaired the district forums on the policy address 2008-2009.
- The Under Secretaries have attended the meetings of all the 18 District Councils to listen to views of District Council members.
- The Under Secretaries and the Political Assistants have taken up invitations to attend district functions and functions held by various bodies and associations, taken part in the related officiating ceremonies and spoken on these occasions, from time to time.

Media and Publicity work

- The Under Secretaries have also attended media programmes (such as radio phone-in programmes), taken up media interviews, and conducted public forums and media briefings.

The day-to-day work of the Under Secretaries and the Political Assistants covers many different areas, and it is difficult for such work to be completely quantified. However, in the light of part (b) of the question, we have set out in the Annex for Members' reference some statistics regarding the attendance of the Under Secretaries and the Political Assistants at certain types of public functions or activities since the time they have assumed office.

As regards part (a) of the question, the response of the authorities is as follows:

- With the creation of the Under Secretary and Political Assistant positions, the Political Appointment System is now more complete. During the time when a Secretary is out of Hong Kong, the Under Secretary can act in the position. Moreover, whenever any major issues or incidents come up, the Under Secretaries can share out the work of the Secretaries and complement the latter's roles. Examples include the following:
 - (i) In recent weeks, in the light of the development relating to the human swine influenza, the Government has activated its "Preparedness Plan for Influenza Pandemic". The Under Secretary for Food and Health has taken part in the daily media sessions frequently to brief the media and the public on the latest situation and the measures taken by the Government. We believe that this can help enhance public confidence.
 - (ii) The Under Secretary for Constitutional and Mainland Affairs conducted public forums in March 2009 on the Consultation Document on Prisoners' Voting Right and, after the close of the consultation period, held a briefing session for the media on the Government's newly proposed policy directions.
- When discharging their work, the Under Secretaries and the Political Assistants would need to liaise with different persons and organizations at different levels, including the Legislative Council, District Councils, political parties/groups, district personalities, media and the relevant stakeholders. They would also need to get in touch with the public through different channels to gauge the public sentiments. However, the liaison, which they have initiated with persons and organizations in different sectors in accordance with their respective portfolios, would not necessarily enhance the level of public recognition for the officials concerned.
- The level of public recognition for public figures is subject to many factors, including the length of their public service, the level of their positions, and the significance of the issues handled by them.

These factors will all have a bearing on their public exposure and the "recognition ratings". Accordingly, it would not be possible for us to assess accurately the effectiveness of the political work undertaken by politically appointed officials by a simple reference to the "recognition ratings".

The Government does not see the need to take any deliberate measures to raise the level of recognition for the officials concerned. We consider that the Under Secretaries and the Political Assistants should continue to perform their official roles and take a practical approach to their work in serving the public.

Annex

Statistical indicators on the attendance of Under Secretaries
and Political Assistants at certain types of public functions or activities
(upon assuming office and up to 20 May 2009)

<i>Under Secretaries</i>	
Attendance at Legislative Council meetings*	153
Attendance at District Council* meetings and related public functions	88
Attendance at functions held by professional bodies, district bodies, non-government organizations, schools or other organizations	594
Attendance at public forums	94
Attendance at media programmes (including television and radio programmes, newspaper interviews, press conferences, and so on)	154
<i>Political Assistants</i>	
Attendance at District Council meetings* and related public functions	44
Attendance at functions held by professional bodies, district bodies, non-government organizations, schools or other organizations	315
Attendance at public forums	56
Attendance at media programmes (including television and radio programmes, newspaper interviews, press conferences, and so on)	31

Note:

* Including the meetings of committees.

MS AUDREY EU (in Cantonese): *President, the Secretary has not answered part (a) of my question, that is, whether an assessment has been made of the work performance of the various Under Secretaries and Political Assistants. Moreover, in part (b) of the question, I asked about the details (including the names, organizers, dates and contents) of the activities attended by each of the Under Secretaries and Political Assistants since their assumption of duty. However, the Secretary has not explained them separately but only provided some combined figures, nor has he given the details of those activities.*

President, may I analyse the information set out in the Annex for the Secretary. There are at present eight Under Secretaries and nine Political Assistants in the Government, but since a breakdown of the figures is not available, I can only take the average. According to my computation, in respect of Under Secretaries, each of them has attended, on average, 1.6 meetings of the Legislative Council, 0.9 meeting of the District Councils, one public forum and 1.6 media programmes each month. As for the nine Political Assistants, each of them has attended, on average, 0.4 meeting of the District Councils (not only meetings of the District Councils, related public functions are also included), 0.5 public forum, 0.25 media programme and three functions of various organizations.

President, according to this attendance report, really, I think they fail. My supplementary question for the Secretary is: First, does the Government consider the performance of the Under Secretaries and the Political Assistants satisfactory? If yes, what are the reasons? What are the criteria adopted? If it is unsatisfactory, will the Government consider reducing their salaries?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): *President, regarding the present additional two tiers, namely the Under Secretary and Political Assistant posts, under the political appointment system, the major policy objective is to bring the political appointment system to perfection. The political team now has 40 members. Colleagues in the positions of Secretaries of Departments and Directors of Bureaux are at the same time Members of the Executive Council. In the course of policy formulation and implementation of the policy agenda, this additional tier of colleagues may provide support in political lobbying work and the explanation of policies to the public. With the employment of the dozens of Under Secretaries and Political*

Assistants, the system has actually become more comprehensive. Since their assumption of office in the middle of last year, the number of public functions attended by us, including meetings of the Legislative Council and District Councils, exceeds 1 500, and Members may just count it. I think it is only a start.

President, surely, during the some three years or four years term of office of officials, we will follow up their performance step by step. With regard to Ms Audrey EU's question about whether or not we will have a pay cut, the Chief Executive indeed mentioned yesterday that colleagues of the political team should ride out the hard times with the public.

MS AUDREY EU (in Cantonese): *The Secretary has not answered whether he considers their performance satisfactory.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, on the whole, we consider that the implementation of the system now is more comprehensive and complete. As for the performance of individual Under Secretaries or Political Assistants, an assessment will be made in the middle of their terms of office.

MR WONG TING-KWONG (in Cantonese): *As pointed out by Dr Robert CHUNG, Director of Public Opinion Programme, in an analysis earlier, Raymond TAM, Under Secretary for Constitutional and Mainland Affairs, and Gabriel Matthew LEUNG, Under Secretary for Food and Health, had received zero recognition. However, with the recent outbreak of the new strain of influenza, the level of recognition and media exposure of Under Secretary Gabriel Matthew LEUNG have increased rapidly. Will the Secretary explain the relationship between the level of recognition and the media?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, that is why I particularly mentioned in the main reply that the popularity of public figures, be they officials or Members, was subject to the length of their service, the level of their positions, and the concern the public had

for the issues handled by them. Recently, due to the outbreak of the human swine influenza, the Under Secretary for Food and Health has to explain regularly to the public the latest work of the Government, which is his obligation to do so. Be we in the position of Director of Bureau or Under Secretary, we should not, nor can we, take any action or create the occasion to increase our media exposure, for such actions are putting the cart before the horse. When we serve Hong Kong and the public, we should work honestly and practically, for only this is the correct approach.

MR CHAN KIN-POR (in Cantonese): *I too would like to mention the incident on swine influenza, for the performance of Gabriel Matthew LEUNG, Under Secretary for Food and Health, in the incident has won him much praise. May I ask the Government whether it will create the opportunity to let capable Under Secretaries to bring their strengths into full play? I believe some people are more capable than others. I think the Government should draw reference from this incident. If some of them are more capable, should we not give them more opportunities, for this will let the public know that Directors of Bureaux and Under Secretaries too need the right opportunity to bring their strengths into full play, so that they will not tar them with the same brush, saying who is capable and who is not. On the contrary, they should be given the opportunity to demonstrate their strengths, and those perform well are worthy of praise.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I believe their performance and whether they can win the praise of the public should be left to the public to judge. Colleagues working in the Government must deal with work on two fronts. First, we have to implement the policy proposals prepared in the middle of the year or the middle of the month, which will be introduced in succession. It is an interactive process whether these policies are recognized by the public, accepted by society and supported by the legislature. Second, we have to deal with emergency conditions, just like a fire warden putting out a fire, which is part of the regular duties. In order to handle these emergency conditions properly, we have to make hay while the sun shines and maintain good support.

Regarding the handling of the human swine influenza this time around, the comprehensiveness and completeness of the response should be attributed to the experience gained by the Government and research organizations of universities

during the years since the SARS outbreak in 2003 and the avian flu incident a couple of years ago. The actions taken this time around involve the participation of government departments, the professional sectors and the academic sectors, and also that of the legislature and the public, in which they have all shown their support and care respectively. Thanks should go to the response of society at large but not the achievement of any individual official. However, the views expressed by Members are quite meaningful, and we will surely give them due consideration.

MS CYD HO (in Cantonese): *When the political appointment system was first introduced, its objective was to enhance accountability, which surely means facing the public. However, from the figures in the Annex, we notice that the function most frequently attended by the Under Secretaries and the Political Assistants are functions organized by organizations, such as officiating ceremonies or delivering speeches at ceremonies, while they have only attended 150 public forums. In respect of the 17 Under Secretaries and Political Assistants, each of them has only attended public forums once in one and a half or two months on average. I query the mere motive of the Government in increasing its manpower is to enhance its ability in public relations work and lobbying political parties, while evading the work involving public discussions, questions and policy explanation. May I ask the Secretary to inform us whether they have particularly avoided attending forums organized by the Democratic Party? If not, will the Secretary promise here that they will accept all invitations in future, so that officials under the political appointment system will have more opportunities to discuss policies with the public and take questions from the public?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I believe my colleagues, be they Directors of Bureaux, Under Secretaries or assistants, take a practical approach in discharging their work. It is necessary for them to carry out duties on three aspects, namely political lobbying, explaining policies and liaising with the media. However, we cannot analyse the situation merely basing on the figures provided, which may not reflect the full picture. At present, the system is still at the initial stage of implementation. Today, the picture I would like to project to Members is that work on all fronts has been carried out to implement proposals put forth in the report in 2007.

As to the question of whether we will avoid attending forums organized by certain political parties or groupings, I believe the answer is in the negative. Every official under the political appointment system has to decide whether the attendance of certain functions will be conducive to his or her duties of explaining policies or establishing relations. If my memory has not failed me, Under Secretary Gregory SO, though a member of the Democratic Alliance for the Betterment and Progress of Hong Kong, has also attended forums arranged by the Democratic Party.

PRESIDENT (in Cantonese): Ms HO, which part of your supplementary question has not been answered?

MS CYD HO (in Cantonese): *President, the Secretary has not answered one point. They have attended 909 functions, but only 150 of those functions were forums. Will the Secretary promise here that they will accept all invitations in future?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I can promise that officials under the political appointment system will surely consider each and every invitation they received.

MR IP KWOK-HIM (in Cantonese): *The 17 Under Secretaries and Political Assistants have assumed office for a year. Since this is a new policy, it should indeed be subject to constant review and improvement. I heard the Secretary say earlier that a review will be conducted but probably at a later time. If a review is to be conducted, may I ask the Secretary one question? He emphasized in the main reply that Under Secretaries or Political Assistants were responsible principally for political work, providing political support and input. Will the Secretary give details on the types of views provided, as well as the definitions of political work and political support? When a review is conducted, will these questions constitute a principal direction?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the political work and support carried out by us are indeed divided into several aspects. First, when a new policy proposal is drafted within the Government, we have to evaluate the responses of the legislature and society when this new policy proposal is submitted to the legislature, as well as the support the proposal may gain in society. This is the most fundamental work. Second, right before and after the introduction of the policy, we have to communicate with different political parties and groupings, independent Members and stakeholders to explain the concept of the proposal and its benefit to Hong Kong society. Third, in the course of implementation or legislation of the policy proposals, or when we have to explain the implementation of the policy proposal, we have to carry out additional work.

Regarding these several aspects, a dozen of Under Secretaries and Political Assistants are providing their views in different Policy Bureaux now, who are also given the opportunities to participate. At present, there are around 40 posts under the political appointment system, I thus consider the structure concerned comprehensive. As to the question of whether this structure should be reviewed, I believe we will have such an opportunity in 2012 when the fourth term Chief Executive is elected. He will consider the composition of various bureaux under the new Government and do some fine-tuning in these three aspects. I believe this may be a right timing to carry out a review of the system.

Concerning the performance of individual Under Secretaries and Political Assistants, as I explained to Members earlier, in the middle of their terms of office (which may be in the middle of the three to four years of their terms of office), an assessment will be made of their performance.

PRESIDENT (in Cantonese): There are still four Members waiting for their turns to ask questions, but since this Council has spent more than 21 minutes on this question, Members will have to follow up the issue on other occasions.

PRESIDENT (in Cantonese): Fifth question.

Assistance to Ex-mentally Ill Persons

5. **DR PAN PEY-CHYOU** (in Cantonese): *President, I have learnt that as the Government has no specific policy on assisting ex-mentally ill persons in seeking employment, quite a number of ex-mentally ill persons have encountered difficulties in seeking jobs, and their remuneration is generally on the low side. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of ex-mentally ill persons currently employed by various government departments, non-governmental organizations (NGOs) under the Social Welfare Department (SWD) and social enterprises;*
- (b) whether the Government has specified the staff salary, the manpower required and the ratio of ex-mentally ill persons among the staff in the outsourced cleaning service contracts awarded to NGOs and social enterprises; and*
- (c) given that the maximum level of disregarded earnings is applicable to all recipients of Comprehensive Social Security Assistance (CSSA), whether the Government will consider raising the relevant level for CSSA recipients who are disabled persons (including ex-mentally ill persons), so as to encourage them to take up employment and integrate into society more actively; if it will, when it will be implemented; if not, of the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, the Administration is fully committed to facilitating and promoting the employment of persons with disabilities (including the ex-mentally ill). Our policy objectives are to enhance the abilities of the persons with disabilities, develop their talents and potential, and ensure that they have equal opportunity to participate in productive and gainful employment in the open market. To this end, the Administration has provided a wide range of vocational rehabilitation services and employment services for persons with disabilities, and introduced a host of initiatives to enhance their employment opportunities. The Administration has already established and implemented the policy on employment of persons with disabilities within the Government. We also strive to encourage subvented*

organizations to formulate suitable policies and measures on employment of persons with disabilities, having regard to their business nature and size of establishment; and to facilitate cross-sectoral collaboration among the business sector, local communities, government departments and non-governmental organizations (NGOs) in promoting the employment of persons with disabilities, thereby supporting the self-reliance of persons with disabilities and their full integration into the community. These policies, measures and services are all applicable to ex-mentally ill persons.

My reply to the different parts of Dr PAN Pey-chyou's question is as follows:

- (a) According to statistics from the Civil Service Bureau, as at March 2008, the number of civil service employees with disabilities was 3 225, accounting for 2.1% of the total civil service strength. Of these, 284 were ex-mentally ill persons, representing about 8.8% of the number of civil service employees with disabilities.

Furthermore, the SWD has implemented the "Enhancing Employment of People with Disabilities through Small Enterprise" Project, under which seed money is granted to NGOs to support the establishment of small enterprises. In order to create more employment opportunities for persons with disabilities and ex-mentally ill persons, organizations receiving subsidies under this project are required to employ persons with disabilities at a ratio of not less than 50% of their total number of employees. As at April 2009, total subsidies of \$30 million have been granted to NGOs for the establishment of 51 small enterprises. The 44 organizations receiving subsidies have employed 347 persons with disabilities, of whom 152 are ex-mentally ill persons, that is, 44% are ex-mentally ill persons.

As regards government subvented social welfare organizations, the Labour and Welfare Bureau conducted a "tracking survey on the implementation of measures to promote the employment of persons with disabilities by Government Subvented Organizations and Statutory Bodies" at end-2007. Of the 172 social welfare organizations covered, 138 responded to the survey. Amongst these respondents, 89 kept statistics on the number of employees with disabilities, but did not have a breakdown of the number of

employees with past history of mental illness. According to the relevant records, these 89 organizations employed a total of 565 persons with disabilities, accounting for an average of about 2% of their total number of employees.

- (b) According to the information from the Financial Services and the Treasury Bureau, with the objective of enhancing the employment opportunities of persons with disabilities, the existing Government procurement system allows government departments to, in respect of jobs suitable for persons with disabilities, procure services only from the rehabilitation NGOs and social enterprises under the rehabilitation NGOs. All rehabilitation NGOs and social enterprises invited to bid for the services will employ persons with disabilities or provide vocational rehabilitation services for persons with disabilities through on-the-job training. To provide flexibility to these organizations in manpower deployment to meet their operational needs, government departments concerned in general do not need to specify in the service contracts the manpower required and the percentage of their employees with disabilities (including the ex-mentally ill), except for service contracts of a larger scale where the minimum manpower requirement will be stipulated.

As for staff salary, the Government has, since May 2004, required its service contractors to offer monthly wages or the equivalent wage rates for the non-skilled workers at an amount of not less than the level of the average monthly wages of the relevant industry/occupation as set out in the latest "Quarterly Report of Wage and Payroll Statistics" published by the Census and Statistics Department at the time when tenders or quotations are invited. Such a requirement also applies to employees of the rehabilitation NGOs and social enterprises awarded with government cleansing contracts. These organizations will also arrange jobs for their trainees receiving vocational rehabilitation services so as to provide them with on-the-job training, and grant a training allowance to the trainees. As there is no employee-employer relationship between the trainees and the organizations, the wage requirement does not apply to these trainees.

- (c) The Comprehensive Social Security Assistance (CSSA) Scheme provides a safety net for those who cannot support themselves financially. It is designed to bring their income up to a prescribed level to meet their basic needs. The disregarded earnings arrangements (the arrangements) under the CSSA Scheme aim to encourage recipients who can work, including ex-mentally ill persons, to find jobs and remain in employment. Under the arrangements, a portion of the monthly earnings from employment will not be deducted from the recipients' CSSA entitlement.

Although the arrangements provide financial incentives for CSSA recipients to work, more generous arrangements may render more people eligible for CSSA, and delay the exit of the CSSA recipients from the CSSA net. We must strike a balance between the two. In fact, the maximum level of monthly disregarded earnings was raised from \$1,805 to \$2,500 in June 2003. On 1 December 2007, we also relaxed the eligibility criteria for disregarded earnings from being on CSSA for not less than three months to two months, and raised the no-deduction limit of monthly disregarded earnings from the first \$600 to the first \$800 of income. As the Administration needs time to observe the effectiveness of the above measures, we have no plan to further relax the arrangements at this stage.

DR PAN PEY-CHYOU (in Cantonese): *I actually have two supplementary questions but, under the present circumstances, I can only choose to ask one of them.*

We can see from the figures given by the Secretary that the ratio of persons with disabilities currently employed by the Government among the total number of civil servants is only 0.18% while the ratio of ex-mentally ill persons among all persons with disabilities is around 20%. Can this figure reflect the reality? Based on the general epidemiological statistics, those with serious mental illness such as the most common schizophrenia account for around 0.5% to 0.75% of the total population. Calculating on the basis of this ratio, amongst all civil servants, there is really a very low ratio of ex-mentally ill persons with more serious mental illness.

Let us consider again the ratio of ex-mentally ill persons among all persons with disabilities. Those employed by the Government account for 20%, but I have just noticed that social welfare organizations have also employed almost 40% of these persons under the scheme; so, the ratio of ex-mentally ill persons employed by the Government as civil servants seems to be really low. May I ask the Government if it would try to change the situation so that more ex-mentally ill persons would be employed by the Government?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): First of all, I would like to thank Dr PAN for his concern about the issue. Actually, no matter whether ex-mentally ill persons or other kinds of persons with disabilities are concerned, I agree totally that the employment of persons with disabilities is an issue for us to tackle. Therefore, I have pointed out clearly in my main reply that the Government also encourages the employment of persons with disabilities by the commercial and industrial sectors, and social welfare organizations besides doing so itself. Dr PAN has made it a point to focus on ex-mentally ill persons, but I have met with different kinds of persons with disabilities and I know that other kinds of persons with disabilities are facing the same difficulties.

In recruiting civil servants, we have not intentionally employed a certain kind of persons with disabilities because we act fairly. When the Government recruits civil servants, persons with disabilities have to file applications. After they have filed applications, as we all know, if they meet the requirements, they do not need to undergo screening and they can attend interviews right away. This is a special arrangement for it is the government policy to give them encouragement and convenience. Therefore, they do not need to go through the initial selection process. In the recruitment of civil servants, only the applicants' abilities and interests are considered in the process. In particular, on the basis of the training they received during the rehabilitation period, it may be more suitable for them to work as cleaners in other social welfare organizations. So, two types of work are in question. We should have a diversified view of issues, that is, the work of civil servants is more regularized, but the work of basic cleaning workers can be more flexible, for example, workers in the refreshment kiosks under the Leisure and Cultural Services Department. Thus, we should consider the whole picture rather than considering the Civil Service only.

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

DR PAN PEY-CHYOU (in Cantonese): *President, the Secretary has not answered my supplementary question. I said just now that the figures reflected that, among those people with disabilities, the number of ex-mentally ill persons employed by the Government among persons with disabilities is on the low side*

PRESIDENT (in Cantonese): Please only repeat the part not answered by the Secretary.

DR PAN PEY-CHYOU (in Cantonese): *My supplementary question is: Does the Government have any measures to rectify the situation of a low ratio of ex-mentally ill persons in the government establishment? Is there such a plan?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Certainly, I will convey Dr PAN's views to the Civil Service Bureau. I understand that his consideration is to give ex-mentally ill persons more opportunities. However, as I have said a while ago, in employing civil servants, the Government must consider their abilities and whether they are competent to perform the relevant tasks. This is definitely the Government's starting point, and fair competition is a concern. I have just mentioned that persons with disabilities who meet the basic requirements can attend interviews without undergoing screening, which also means a convenience to them. I will convey Dr PAN's appeal, but it would be very hard for me to intentionally

As to whether more ex-mentally ill persons can be employed for certain tasks, it depends on whether applications have been filed. In this connection, I will surely convey Dr PAN's views to the Civil Service Bureau.

MR WONG SING-CHI (in Cantonese): *President, the Secretary has mentioned in his main reply that the Government has employed a certain number of persons with disabilities. May I ask the Secretary whether the Government has information on the number of persons with disabilities who intend to work but*

cannot find jobs? That is the unemployment figure of persons with disabilities. If so, how many are there? Also, are there any measures to provide persons with disabilities who cannot find jobs with opportunities to work? If not, will the Government produce the statistics as quickly as possible?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr WONG for his question. We have not conducted a survey lately but I hope to invite the Census and Statistics Department to conduct a more comprehensive survey in the future because the latest figures were collected a few years ago. At that time, it was shown that if the unemployment rate if the present employment rate is 5.3%, the unemployment rate of persons with disabilities will surely be higher, but, how many times higher? We do not have any frame of reference. Yet, based on the past surveys, it may be more than doubled, that is, we may have a double-digit figure.

We all understand that the employment situation of persons with disabilities is grim and efforts should be made, but, how? First, we have to make efforts at the source, that is, offer more training to help them build up self-confidence and become equipped. As we can see, the Labour Department (LD) has a Work Orientation and Placement Scheme and a Selective Placement Division, providing comprehensive assistance. For instance, in 2008, some 3 300 persons registered to find jobs at the Selective Placement Division of the LD, and quite a large number of them were successfully employed. The LD found jobs for 2 490 applicants, that is, 75% of those who sought help were successfully employed, and some of them are ex-mentally ill persons to whom the main question referred. Amongst some 3 000 job seekers, 750 were ex-mentally ill persons, and up to 71%, that is, 533 persons found jobs. These are only the figures provided by the LD. The series of schemes under the SWD are familiar to Members, which include Sunnyway and the Enhancing Employment of People with Disabilities through Small Enterprise Project. As accounted for in the main reply, we have a diversified approach and they may not necessarily be employed; they may be self-employed or employed by social enterprises. Thus, we can only address the issue through diversified and multi-level training and mobilized participation of the community.

This year, the focus of the Rehabilitation Advisory Committee is to strongly promote employment opportunities for persons with disabilities. We have met with a lot of trade associations and I have personally written to many trade associations and visited the 18 District Councils one by one. I hope that a

message would be brought to the small and medium employers at the district level so that they would give persons with disabilities in the districts more opportunities, such that they would not be required to work in the remote districts. We hope that the community would be mobilized in participation and provide these people with more opportunities.

MR TAM YIU-CHUNG (in Cantonese): *President, I have this question for the Secretary. In respect of the employment of persons with disabilities, is the employment of ex-mentally ill persons be more difficult? It is because some organizations, companies or employers have worries about ex-mentally ill persons. Have the authorities looked into the situation?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Mr TAM has raised the point that the knowledge of many employers of persons with disabilities should be enhanced. This brings out a main point, that is, we have to make educational efforts. That is why I said earlier that the focus of the Rehabilitation Advisory Committee this year is to promote employment opportunities for persons with disabilities. The source is the employers and efforts should be made to turn them into liberal employers. Many people have the wrong impression that ex-mentally ill persons have propensity to violence, which is completely wrong. If they have taken medications, they will have a full recovery. Moreover, some think that deaf persons must be mute, which is also a misconception for there is no relationship between being deaf and being mute. There is quite a lot of misunderstanding among people, and messages can actually be sent through education and publicity. Yet, getting substantive funding is the most important point. For example, we all remember that in this year's budget, the Legislative Council has approved the allocation of more than \$390 million to the LD, \$11.8 million of which will be used for the furtherance of the Work Orientation and Placement Scheme of the LD, extending the subsidy period so as to encourage employers to employ persons with disabilities, and there is a quota of 800 persons. In the past, if employers wanted to employ persons with disabilities, we only provided a subsidy of \$3,000 for a period of three months as encouragement. But the subsidy has now been increased to \$4,000 for a period of six months. For employers, this kind of support is more appropriate and it provides them with an incentive to employ persons with disabilities, which will give persons with disabilities more opportunities to enter the job market.

MR LEUNG KWOK-HUNG (in Cantonese): *President, there are certainly no statistics from the Government because such intention is lacking. However, it is even harder for ex-mentally ill persons or persons with disabilities to be employed under outsourced contracts or by social enterprises. Nevertheless, I am most interested in social enterprises. Last Saturday, I met a lady when I was playing football. She is an employee of an organization for discharged mental patients to which government services are outsourced. She lives in Tze Wan Shan and she sweeps the floor at a football pitch at Wo Yi Hop Road, Kwai Chung. She works nine and a half hours daily and she probably has a lunch break of an hour. It is stated in the last paragraph in part (c) of the Secretary's main reply that these people will not be protected. Does he think that it is right to do so? These pitiable people have become an image engineering product through which the rehabilitation bodies ask the Government for funds. Does he think that is right? May I ask him why they are not protected? Why can those employed by social enterprises and rehabilitation bodies not enjoy the minimum wage as other workers do? The cleaners and security guards employed by the Government already enjoy the minimum wage. I stand to be enlightened by him in this connection.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr LEUNG for his question. Concerning this case, it depends on whether the contracts of the social enterprises he just mentioned are government contracts or not. I have stated very clearly in part (b) of my main reply that if they are government contracts, these employees will enjoy wage protection: "such a requirement also applies to employees of the rehabilitation NGOs and social enterprises awarded with government cleansing contracts." Hence, about this case, if the organization to which government contracts have been awarded has not done so, I hope Mr LEUNG Kwok-hung can give me the information so that follow-up actions can be taken.

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

MR LEUNG KWOK-HUNG (in Cantonese): *My supplementary question is: If the case that I have complained about is true, will the rehabilitation bodies be penalized?*

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, you have not asked this supplementary question just now. I believe the Secretary has already answered your supplementary question.

MR LEUNG KWOK-HUNG (in Cantonese): *OK.*

PRESIDENT (in Cantonese): Last supplementary question.

DR LEUNG KA-LAU (in Cantonese): *The Secretary said earlier that persons with disabilities would be treated fairly during the recruitment of civil servants. However, the reality is that persons with disabilities are inevitably less competitive in certain aspects. If the Secretary says that recruitment will be conducted fairly, persons with disabilities are relatively disadvantaged and they can hardly be employed. This may explain why the ratio of persons with disabilities among civil servants may be lower than that in other organizations.*

As the Secretary has said a short while ago, a monthly subsidy of \$2,000 will be given for each university student for purposes of preserving employment. If there is a post in the private sector for which persons with disabilities can be considered, they might as well employ a university student because of the Government's subsidy. Actually, will the Government consider subsidizing this way the employment of persons with disabilities by commercial organizations and the private sector on a long-term basis? If these organizations employ persons with disabilities, will the Government subsidize them, for example, give them a monthly subsidy of \$2,000?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Dr LEUNG for his question. First, in the recruitment of civil servants, we actually offer the so-called concessions in the process. I have just said that, if persons with disabilities meet the basic entry requirements, they do not need to undergo screening and they can directly attend interviews; second, even if we find during

the selection process that a disabled applicant is only suitable for a certain type of work in the grade and cannot take up other posts, we will not impose obstacles on him just because he will not be competent at a job if he is offered another posting in the future. In other words, if he can perform the relevant tasks, we will employ him and we will not choose not to employ him after considering that he may not be competent at a job if he is offered another posting. We should not have such an idea.

Therefore, the Government's policy is very explicit. First, we offer opportunities to persons with disabilities; second, Dr LEUNG has just asked if there can be a government policy that allows all employers of persons with disabilities to get wage subsidies or allowances from the Government. If this is going to be a long-term policy, we have to consider this new policy very carefully as it will become a long-term wage subsidy. Nonetheless, the existing government measures are very flexible indeed. When I answered the main question earlier, I said that the LD has a Work Orientation and Placement Scheme, which is precisely what Dr LEUNG has in mind, and the Scheme has been operating smoothly for a few years. The latest arrangement is that, if an employer is prepared to give a person with disabilities referred by the LD an opportunity, he will be given a subsidy for six months. The monthly subsidy is capped at \$4,000 or two thirds of the wage, and the duration is six months. Furthermore, their mentors can also get \$500 as a humble reward. In the process, if training is required, we have complementary follow-up measures. I believe the measure is most appropriate and practicable, and very effective, too.

PRESIDENT (in Cantonese): Last oral question.

Promoting Culture of Ethnic Minorities in Hong Kong

6. **DR PRISCILLA LEUNG:** *President, I have received complaints that while the population of South Asians in Hong Kong has been increasing in recent years, cinemas rarely show films that fit the taste of the South Asians, and the Government and non-governmental organizations are not active in promoting cultural and ethnic diversity among the locals. Non-mainstream films are only shown at the annual Hong Kong International Film Festival. In this connection, will the Government inform this Council:*

- (a) *whether South Asian films, for instance, Bollywood (such as Indian) films, have been shown at any community centres under the Leisure and Cultural Services Department (LCSD) or the City Hall in the past five years; if so, of the relevant figures; if not, whether the authorities will consider showing such films;*
- (b) *of the activities which were organized by the authorities in the past five years to promote the traditional festivals, culture and habits of ethnic minorities to Hong Kong people; and*
- (c) *whether the authorities will make reference to "Little India", a successful example in Singapore, and develop a minority hub at the West Kowloon Cultural District (WKCD) or a landmark minority town in areas, such as Tsim Sha Tsui, which are highly populated by ethnic minorities?*

SECRETARY FOR HOME AFFAIRS: President,

- (a) Hong Kong is a metropolis which embraces the essence of the Chinese culture and the diversities of other cultures. Our arts and cultural activities are free and open, as well as pluralistic and tolerant. The films, thematic activities and programmes that we support and present include those from the South Asian region.

So, the answer to part (a) of the question is, in the past five years (that is, from 2004-2005 to 2008-2009), two Indonesian, four Cambodian, 12 Indian, 15 Thai, 17 Filipino, 18 Singaporean, 19 Malaysian films were shown in the LCSD venues.

- (b) In the past five years (that is, from 2004-2005 to 2008-2009), activities promoting the traditional festivals and culture of ethnic minorities supported/presented by the Government are listed in Annex. In addition, the Hong Kong Arts Development Council provided funding support to a training and exchange workshop for East Asian drama teachers, a film co-produced by Hong Kong and Bangladeshi directors and a publication of Hong Kong-based Nepalese literature.

- (c) In line with our policy to encourage wider participation in arts and cultural activities by all people, the WKCD, like all other cultural venues, will be staging programmes of rich and diverse content, produced by people of different cultural background, for the enjoyment of people locally, regionally and internationally. The WKCD Authority will soon launch a large-scale public engagement exercise to canvass views on the development plan and to gauge the public's expectation and aspiration of the WKCD, for which ideas and comments are most welcome.

Our city grows organically. The Government has no intention to develop a town for people of any particular ethnic minority.

Annex

South Asian Cultural Programmes/Activities Supported/Presented
by the Government from 2004-2005 to 2008-2009

<i>Year</i>	<i>Country</i>	<i>Programme/Activity</i>	<i>No. of Activity</i>
2004-2005	The Philippines	Culture in Motion ⁽¹⁾	1
	Thailand and Sri Lanka	Asia Ethnic Cultural Performances ⁽²⁾	1
	Singapore	"Chamber Opera Opium" — Music performance by Checkpoint Theatre*	2
2005-2006	Pakistan	Culture in Motion ⁽¹⁾	1
	Indonesia	Culture in Motion ⁽¹⁾	1
	India and Indonesia	Asia Ethnic Cultural Performances ⁽²⁾	1
2006-2007	Thailand	Culture in Motion ⁽¹⁾	1
	India	Culture in Motion ⁽¹⁾	1
	India	"Vamaa-The Feminine" — Dance performance by Sri Shakti Academy*	2
	Nepal	Cultural in Motion ⁽¹⁾	1
	Singapore	"Geisha" — Theatre programme by TheatreWorks*	2
2007-2008	Multicultural	Culture in Motion ⁽¹⁾	1
	India	"BhuKham — Circus of Earth and Sky" — Dance performance by Daksha and Sheth Dance Company*	3
	India	"Tao of the Heart" — Dance performance by Sri Shakti Academy*	2

<i>Year</i>	<i>Country</i>	<i>Programme/Activity</i>	<i>No. of Activity</i>
2008-2009	India and Indonesia	Asia Ethnic Cultural Performances ⁽²⁾	1
	Thailand (and France)	"About Khon" — Dance performance by Pichet Klunchun (Thailand), Pichet Klunchun Dance Company (Thailand) and Jerome Bel (France)*	2
	Thailand	"Analysing Khon" — Dance-related workshop by Pichet Klunchun*	1
	Vietnam (and France)	"Fragile Beauty" — Music performance by Huong Thanh & Nguyen Le Septet*	1

Notes:

- (1) Culture in Motion is a series of thematic Sunday cultural programmes organized since 2005, in which ethnic communities are invited to showcase their culture through dances, songs, games, photographic and art exhibits.
- (2) These performances are organized in collaboration with Consulates of South Asian countries in Hong Kong. Nationals of those countries residing in Hong Kong or organizations are invited to present cultural performances that are representative of their national character, including dance, music and traditional costumes.

* Fee-charging programmes

DR PRISCILLA LEUNG: *May I refer to the second paragraph of part (c) of the main reply. Can you tell us why when the city grows organically, the Government has no intention to build up a minority landmark town to flourish different minority cultures such as food, music, and movie culture, to recognize their contribution in Hong Kong? Are you aware of the fact that, now in Hong Kong, to watch a minority film, the cost can be three times more than a local movie, which is really high for an ordinary citizen to afford? How do you solve these difficulties for the minority?*

SECRETARY FOR HOME AFFAIRS: President, I fail to see how a film is in any way tied to whether we have a particular concentration of ethnic minorities in a district, I would avoid calling it a ghetto. But in Hong Kong, we always live in racial harmony and people of different ethnic origins can always live harmoniously together in any part of our city.

DR RAYMOND HO (in Cantonese): *Hong Kong is an international city. With the development over the past several decades, it has now become a very famous*

city for exchange and fusion of Eastern and Western cultures. As a matter of fact, the Mainland also gives its full support to encouraging the development of the cultures, arts and historical backgrounds of 55 Chinese ethnic minorities and a lot of resources have been allocated for this purpose. As for Hong Kong, as mentioned in the main question, the Government and non-governmental organizations are not active in promoting ethnic and cultural diversity among the locals. Although the Government has mentioned just now that it has promoted various kinds of activities listed in the Annex, the number is very limited and we fail to see that it is active in doing so. As advised by the Secretary, he will not assist, support or promote any particular aspect of ethnic cultures. In view of the fact that we have to develop into an international city and the so-called balance of development of Chinese ethnic minorities in the Mainland, is such a manner not active enough for achieving social diversity and enriching the life of the general public?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the SAR Government's policies on arts and culture are really aimed at promoting a kind of forward development of open, tolerant and pluralistic arts and cultural activities. Therefore, among various kinds of cultural activities organized by the LCSD, the main consideration is whether such activities can enable the majority of the audience and the public in Hong Kong to upgrade their taste in art. At the same time, we have also set up the Race Relations Unit, which is specifically tasked to promote community and racial harmony. The Race Relations Unit has organized various kinds of activities which are conducive to promoting an awareness of the culture of ethnic minorities for several years in a row. For example, the Equal Opportunities (Race) Funding Scheme is an annual programme to encourage community-based initiatives to promote recognition of and encourage harmony with the minorities. Moreover, there are also school talks, story books for school children, teaching kits and exhibitions. As mentioned in the Annex, there is also an activity called "Culture in Motion", under which we will organize cultural activities in collaboration with consulates of various ethnic minorities each year, and enable them to hold such events openly in the community.

MR PAUL TSE (in Cantonese): *The Secretary has mentioned in his main reply that he hopes ethnic minorities or communities can grow organically. This is, of*

course, correct in the light of Chinese people's practice and attitude of letting everything run its course. However, is it equivalent to letting them chart their own course?

President, the community has expended a lot of resources to set up the Equal Opportunities Commission, with a view to prohibiting and preventing any injustice or even illegal acts against ethnic minorities. And there will also be legislation to stipulate a number of new measures soon. We have adopted a negative approach to prohibit such acts at present. However, why can we not adopt a positive approach to enhance the community's acceptance and awareness of ethnic minorities? No matter through organizing recreational activities or providing more complementary measures in education, we have to achieve a more comprehensive social integration, rather than just prohibiting such acts without making any positive enhancement?

President, we have expended a lot of resources to organize activities for the youth to fight against crimes and drugs. At the same time, we have also expended a lot of resources to organize other activities for them, such as boy scouts and girl guides, education or training. We have all along been putting efforts on both positive and negative sides. My supplementary question is: Do we have any positive structure at present — apart from the Race Relations Unit mentioned by the Secretary just now — any policies, units, manpower or resources to nourish racial integration in a positive manner?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I agree to Mr TSE's suggestion. We should not only prevent discrimination in a passive manner, but also promote racial harmony proactively. As a matter of fact, the Race Relations Unit under the Government has organized activities in this regard for several years in a row, including cultural activities and festive events. I have mentioned an activity called "Culture in Motion" in the Annex, under which different ethnic minorities have promoted their cultural performances. For example, Filipinos will organize an activity called "Concert in the Park" with the support of their consulate each year, and the SAR Government will provide the Hong Kong Cultural Centre Piazza for them to organize such kind of activities each year. In fact, we are aware that Hong Kong, being an international city, can enrich our city by enabling different ethnic minorities to organize activities and performances with their cultural or festive uniqueness in Hong Kong.

MR LAU KONG-WAH (in Cantonese): *President, I wonder if the Secretary has ever been to the vicinity of the Legislative Council Building on Sundays. I always find that many Filipino groups will organize various kinds of activities there. They enjoy them very much. Moreover, both their organizing power and arts performances are outstanding. Has the Secretary reviewed or concluded these experiences? As Filipino organizations or individuals can be so successful, can he promote these activities to other ethnic minorities? How does the Government encourage and subsidize them to organize more similar activities?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): Under the Asia Ethnic Cultural Performances organized by the LCSD each year, various kinds of Asian ethnic events will be organized, including those Indonesian, Indian, Korean and Japanese events. As a matter of fact, activities organized by Filipinos in Central, Hong Kong are really very good. Moreover, apart from Filipinos, activities organized by Indonesians are also very impressive. The foreign service officer of Indonesia has told me that he has taken the situation of Indonesian domestic helpers in Hong Kong as an example and promoted it to his country and even to other countries.

MR LEUNG KWOK-HUNG (in Cantonese): *President, after listening to the Secretary's reply and reading the Annex, I think it most appropriate to describe it as "for embellishment purposes and disproportionate". May I ask the Secretary, in the funding for arts and cultural activities, if there is an appropriate amount set aside for ethnic minorities? What I am most concerned is the Race Relations Unit. What is the ratio of nationalities in the Unit? Can you provide us with such information? Are its members all Chinese? I think this is an indicator. President, I will just point it out briefly. Our major services are, in fact, provided in accordance with the "bilingual and trilateral" policy, which may be more beneficial to those who speak English. Worse yet, can these non-South Asians, who speak languages other than those stipulated in the "bilingual and trilateral" policy, be offered assistance by the Government? This is the crux of the question.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, Hong Kong is, of course, a society predominantly Chinese. According to our latest statistics,

about 300 000 of our population are not of Chinese nationality. As to the question of whether it is disproportionate, I do not quite agree. Regarding our arts and cultural activities, they are very proportionate indeed. Mr LEUNG asked just now whether any members in the Race Relations Unit are of other nationalities. In the past, the Race Relations Unit was under the Home Affairs Bureau. As far as I understand it, there were just a few non-Chinese members in the Unit at that time who knew other languages of ethnic minorities. After the recent reorganization of the government structure, the Race Relations Unit is now under the Constitutional and Mainland Affairs Bureau. I believe there should still be some non-Chinese members in the Unit who can bring their expertise into play.

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

MR LEUNG KWOK-HUNG (in Cantonese): *The part on the ratio.*

PRESIDENT (in Cantonese): What ratio?

MR LEUNG KWOK-HUNG (in Cantonese): *The ratio of the nationality of members of the Race Relations Unit.*

PRESIDENT (in Cantonese): Do you mean those non-Chinese members, that is, the ratio of those members who are ethnic minorities?

MR LEUNG KWOK-HUNG (in Cantonese): *President, non-Chinese people mentioned by the Secretary in his reply is not the answer, what I am asking is the ethnic minorities*

PRESIDENT (in Cantonese): Are you asking the ratio about the nationality of those members who are ethnic minorities?

MR LEUNG KWOK-HUNG (in Cantonese): *Yes. Is the funding allocated by proportion, that is, according to the ratio concerned? There are some 300 000 ethnic minorities, accounting for about 5% of our total population. As such, are they allocated with 5% of the resources? In fact, I think more resources should be allocated to them.*

PRESIDENT (in Cantonese): Secretary, please give a reply on the ratio concerned.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, concerning the ratio of members in the Race Relations Unit, I can only provide the information after the meeting as the Unit is not under the Home Affairs Bureau now. (Annex II) In respect of the funding for arts and cultural activities, as neither the Home Affairs Bureau nor the LCSO promotes them on the basis of any political or racial considerations, I am afraid we cannot provide the ratio in this regard.

DR PRISCILLA LEUNG: *President, in order to eliminate the chance of racial tension, will the Government consider recruiting more policemen with ethnic minority background to avoid the recurrence of the Limbu incident?*

SECRETARY FOR HOME AFFAIRS: President, I think that the question is beyond the question raised today, so I am in no way to answer that.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, how does your second supplementary question relate to the main question?

DR PRISCILLA LEUNG: *In fact, the question has been raised for the frustration of the long-term expensive cost of entertainment in Hong Kong, and when I discussed with different minority groups, some practical solutions have been suggested to avoid certain kinds of tragedies from occurring, and so I tried to relate that. But if Mr TSANG doesn't feel comfortable, it is OK.*

MR LAU KONG-WAH (in Cantonese): *President, the Secretary has mentioned just now that there are more cultural activities organized for Indonesians and Filipinos. However, people from India, Pakistan and Nepal have been living in Hong Kong for many generations. They do not come here to work and their number is smaller.*

I notice that the LCSD will organize performances in the community from time to time, but I seldom see performances by ethnic minorities. In fact, they desperately hope to participate in such performances. Therefore, can the Secretary consider inviting them to take part in some performances in districts which are populated by ethnic minorities, so that they can also get involved?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we have also organized such activities. For example, people from Nepal will rent venues in Yuen Long to hold their cultural and recreational activities, and the SAR Government will provide subsidies for rental of such venues.

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

MR LAU KONG-WAH (in Cantonese): *The Secretary has mistaken my point. What I refer to is not just the rental of venues. As the LCSD will organize stage performances from time to time, those organizations can be invited to take part in such performances. This is what I mean. If there is no such invitation for the time being, I hope the Secretary can consider this.*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will consider this.

PRESIDENT (in Cantonese): The Council has spent more than 20 minutes on this question, and the whole question session has lasted more than two hours. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Impact of Bus Service Rationalization Plan**

7. **MR WONG KWOK-KIN** (in Chinese): *President, I have received complaints from members of the public pointing out that since the implementation of the Bus Service Rationalization Plan (the Plan) by the Transport Department (TD), some franchised bus routes have been cancelled, bus trips of some routes have been cut and the situation of buses losing trips has become increasingly serious, thus causing inconvenience to passengers. In this connection, will the Government inform this Council:*

- (a) *of the number of District Council (DC) districts in which the Plan had been implemented as at the end of April this year; whether the TD had consulted the DCs concerned and passengers in advance; if it had, of the consultation outcome;*
- (b) *of the total number of bus routes affected by the Plan in the past five years and, among them, the respective numbers of bus routes which were cancelled, which were truncated, had bus trips cut and had fewer buses serving; and*
- (c) *whether it knows if various franchised bus companies have currently set aside stand-by buses and set up emergency vehicle deployment mechanisms to minimize the impact on bus services in the event of unforeseen incidents, such as breakdown of buses; if they have, of the details; if not, the reasons for that?*

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

- (a) With limited road space but large number of vehicles and pedestrians in Hong Kong, the public is very concerned about road traffic conditions and the impact of heavy traffic on the environment. To enable sustainable development of Hong Kong, the Government's transport strategy is to rationalize bus services with a view to meeting passengers' demand, enhancing the efficiency of the bus network as well as minimizing traffic congestion and roadside air pollution. The TD implements annually the Plan in various districts

taking into account the situation on the ground, including passengers' demand. Before introducing major bus rationalization items, the TD will normally consult the DCs concerned and take into consideration their views before deciding whether such rationalization items should be implemented as proposed or amendments should be made.

- (b) Over the past five years (from 2004 to 2008), a number of new railways came into operation to provide the public with more choices of transport services. In response to changes in the demand of bus passengers, the TD cancelled 44 bus routes, truncated 17 routes, reduced the frequency of 54 routes in the Plans which were implemented over the past five years. Over the same period, the TD also introduced 20 new routes and increased the frequency of 66 routes. The number of franchised buses in service decreased from 6 179 in end 2003 to 5 794 in end 2008.
- (c) To maintain normal services as far as practicable, all franchised bus companies have set aside stand-by buses for deployment in case of general unexpected incidents. They have also devised operating procedures for bus deployment to cater for unexpected incidents.

Regulation of Nicotine Contents of Cigarettes

8. **MR PAUL CHAN** (in Chinese): *President, it has been reported that according to the latest test report published by the Consumer Council in April this year, the nicotine contents of the cigarettes currently on sale in Hong Kong have increased by 13% on average when compared with those of last year. Moreover, some medical specialists have pointed out that the higher the nicotine contents of cigarettes, the greater the chance of smokers suffering from addiction syndrome. In this connection, will the Government inform this Council whether:*

- (a) *it has looked into the reasons for tobacco companies increasing the nicotine contents of cigarettes; whether it will require tobacco companies to proactively notify the government department(s) concerned after they have changed the tar and nicotine contents of cigarettes;*

- (b) *it will consider legislating to impose a ceiling on the nicotine contents of the cigarettes on sale in Hong Kong; if it will, of the details; if it will not, the reasons for that; and*
- (c) *it had studied in the past two years the health hazards caused to smokers by nicotine in cigarettes; if it had, of the study results; if it had not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, we must first stress that cigarettes, containing over 4 000 kinds of harmful chemicals (including more than 50 carcinogens), may cause a number of diseases such as heart disease and cancer. Smoking is therefore hazardous to health regardless of its nicotine or tar yields.

At present, Part III of the Smoking (Public Health) Ordinance (the Ordinance) stipulates that cigarette packets and containers shall bear the nicotine and tar yields in the prescribed form and manner. Part V of the Ordinance requires that the Government Chemist may from time to time analyse any cigarette for the purpose of determining its tar and nicotine yields and may publish the result of any such analysis. Such analyses are conducted with reports published for public inspection on an annual basis. Part III of the Ordinance also specifies that it is an offence for cigarette packets or containers to bear incorrect tar and nicotine yields, and such an offence is punishable by a fine at level 5 (that is, \$50,000) on conviction.

Research findings show that nicotine is an addictive element in tobacco products. Even if the nicotine contents of cigarettes are deliberately reduced, smokers will, out of addiction, unconsciously modulate their intake of nicotine by increasing the number of cigarettes they smoke and the frequency and strength of puffs. Smokers may thus inhale more harmful chemicals contained in cigarettes, including various carcinogens. Therefore, restricting the nicotine yield of tobacco products by legislation neither reduces the smoking prevalence nor the hazards to health. Smoking cessation is the only way to reduce smokers' risks of developing diseases. In view of the above, the Administration has no plan to legislate on the nicotine yield of tobacco products or require tobacco traders to report proactively any change of the nicotine yield. The Administration will

continue to enhance the smoking cessation services provided for smokers and promote smoking cessation through the Council of Smoking and Health as well as at the district level.

Kowloon Southern Link

9. **MR ANDREW CHENG** (in Chinese): *President, regarding the impact of the Kowloon Southern Link (KSL) on other public transport services and train fares upon its commissioning in the second half of this year, will the Government:*

- (a) *set out each of the route numbers of the services of franchised buses, public light buses or residents' coaches which need to be adjusted, together with the districts in which they are operating, and the details of such adjustments (including the routes to be cancelled); and*
- (b) *inform this Council whether it knows if the MTR Corporation Limited (MTRCL) will increase the fares for travelling on the West Rail from Northwest New Territories to the urban areas; and whether it will extend the West Rail Line Day Pass and the West Rail Line Monthly Pass concessionary schemes, which will expire in June this year, and extend the coverage of such schemes to KSL; if so, of the details?*

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

- (a) Upon commissioning, the KSL will provide an alternative transport service for the public. The Transport Department (TD) expects a decrease in the utilization of some franchised bus routes as some bus passengers switch to KSL. Corresponding changes have to be made with a view to maintaining efficient public transport services to cater for passengers' demand. Proposed measures in the public transport service plan (the service plan) include adjustment, modification or reduction of some franchised bus services. To tie in with these measures, we also plan to strengthen related services to provide alternative routes for passengers.

The TD is consulting the relevant District Councils (DCs) on the proposed adjustments to the franchised bus services. Views of DCs and local communities will be taken into account when formulating the service plan. Details of the TD's current proposed plan are at Annex.

The service plan will be implemented in a progressive manner. Upon commissioning of KSL, suggested related bus service modification will be implemented to enhance connectivity with the new rail link. Subsequently, other suggested changes will be made gradually in the light of the situation on the ground to ensure smooth implementation.

As for green minibuses (GMB), we do not foresee any significant impact on their services upon commissioning of KSL. The TD will monitor the utilization of GMB services concerned and make appropriate service adjustments where necessary.

Regarding residents' service buses, we do not foresee any impact on their services.

- (b) As KSL will form a part of the MTR network, fares will be set according to the existing fare structure. KSL is expected to commence service in the third quarter of 2009. The MTRCL will brief the Legislative Council Panel on Transport on the progress and fares of KSL before the commissioning of KSL.

West Rail Line Monthly Pass and West Rail Line Day Pass are promotion measures introduced by the pre-merger Kowloon Canton Railway Corporation to tie in with the opening of the West Rail Line, so as to encourage passengers to use the new rail line. Upon the rail merger on 2 December 2007, the MTRCL extended the expiry of these promotions to 30 June 2009. The MTRCL is reviewing the promotions, with a view to announcing the results of the review and the decision on whether to extend the promotions as soon as practical.

Annex

Franchised Bus Route Rationalization Plan to Tie in with Commissioning of KSL

<i>Item No.</i>	<i>Route No.</i>	<i>Origin and Destination</i>	<i>Proposed Plan</i>
<i>Merging/Cancellation/Modification of Routes</i>			
1.	K16	East Tsim Sha Tsui Station — Public Transport Interchange at Nam Cheong Station	Merging of Route K16 with Route 12; increase in the frequency of Route 12 and re-alignment of its route to run along Sham Mong Road and to cover Hoi Lai Estate
2.	12	Sham Shui Po (Tonkin Street) to Tsim Sha Tsui (Circular)	
3.	63X	Tin Tsz — Jordon (Wui Cheung Road)	Modification of route
4.	257B	Shan King Estate — Tsim Sha Tsui (one special departure during morning peak hours only)	Cancellation of route
5.	267S	Siu Hong Court — Tsim Sha Tsui (one special departure during morning peak hours only)	Cancellation of route
<i>Adjustment of Frequency</i>			
6.	12A	Public Transport Interchange at Nam Cheong Station — Whampoa Garden	Adjustment of frequency (1 bus less)
7.	234X	Bayview Garden — Tsim Sha Tsui East (Mody Road)	Adjustment of frequency (1 bus less)
8.	238X	Riviera Garden — China Ferry Terminal	Adjustment of frequency (1 bus less)
9.	260X	Po Tin — Hung Hom Station	Adjustment of frequency (3 buses less)
10.	268B	Long Ping Station — Hung Hom Ferry Concourse	Adjustment of frequency (3 buses less)
11.	269B	Tin Shui Wai Town Centre — Hung Hom Ferry Concourse	Adjustment of frequency (3 buses less)
12.	2E	Kowloon City Ferry Pier — Pak Tin Estate	Adjustment of frequency (2 buses less)
13.	18	Public Transport Interchange at Nam Cheong Station to Oi Man (Circular)	Adjustment of frequency (1 bus less)
14.	41A	Cheung On — Tsim Sha Tsui East	Adjustment of frequency (2 buses less)
15.	44	Tsing Yi Estate — Mong Kok East Station	Adjustment of frequency (2 buses less)
16.	60X	Tuen Mun Central — Jordon (Wui Cheung Road)	Adjustment of frequency (3 buses less)
17.	61X	Tuen Mun Station — Kowloon City Ferry Pier	Adjustment of frequency (2 buses less)
18.	68X	Hung Shui Kiu — Jordon (Wui Cheung Road)	Adjustment of frequency (2 buses less)
19.	212	Whampoa Garden — Sham Shui Po (Tonkin Street)	Adjustment of frequency (1 bus less)
20.	43C	Cheung Hong — Tai Kok Tsui (Island Harbourview)	Adjustment of frequency (1 bus less)
21.	69X	Tin Shui Estate — Jordon (Wui Cheung Road)	Adjustment of frequency (1 bus less)

Chinese Medicine Practitioners Licensing Examination

10. **MR ALBERT HO** (in Chinese): *President, regarding the eligibility of graduates of Chinese medicine courses to take the Chinese Medicine Practitioners (CMPs) Licensing Examination, will the Government inform this Council whether it knows:*

- (a) *the considerations of the Chinese Medicine Practitioners Board (Practitioners Board) under the Chinese Medicine Council of Hong Kong in listing "having satisfactorily completed a full-time on campus degree course with duration of not less than five years" as a requirement for taking the CMPs Licensing Examination, and if there is any other region which has adopted similar requirements for CMPs licensing examinations or any other profession which has adopted similar requirements for licensing examinations; and*
- (b) *if there is any Chinese medicine course, which is currently offered by a local tertiary institution, whose graduates are not eligible to take the CMPs Licensing Examination; if so, the current number of such graduates, as well as their placement rate and the professions in which they were engaged at the end of the year of their graduation?*

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

- (a) In accordance with the Chinese Medicine Ordinance (CMO), the registration system for CMPs in Hong Kong was implemented in 2000. The Chinese Medicine Council of Hong Kong is the regulatory body set up under the CMO. Its Practitioners Board is responsible for regulating the CMPs in Hong Kong.

Section 59 of the CMO stipulates that the Practitioners Board shall conduct a Chinese Medicine Practitioners Licensing Examination (the Licensing Examination), the passing of which shall qualify a person to apply to be a registered CMP. According to the CMO, listed CMPs and those who have satisfactorily completed the undergraduate degree course of training in Chinese medicine practice or its equivalent as is approved by the Practitioners Board, are eligible to undertake the Licensing Examination.

The quality of CMPs has a direct impact on people's health. As such, the Practitioners Board considers that students of approved courses who are eligible to undertake the Licensing Examination should have received comprehensive and fundamental university education. The students should also have been provided with adequate opportunity to practise continuously in order to complete all the relevant training and experiments with a long period of clinical training and internship. Given that other local health care professions (for example, medical practitioners and dentists) have adopted full-time undergraduate degree course as the training mode and the registration requirement, the Practitioners Board considers that the full-time mode of education should be adopted for the approved courses for the Licensing Examination.

The Practitioners Board, pursuant to its function as conferred on it by the CMO, set down the basic requirements of an approved course for the Licensing Examination in the light of the above considerations. An approved course should be a full-time undergraduate degree course in Chinese medicine with duration of not less than five years, including a clinical internship of not less than 30 weeks and 10 compulsory subjects on Chinese medicine specified by the Practitioners Board. In addition, the institutions conducting the course must fulfil the basic requirements of university and clinical teaching in terms of teaching condition, teaching/practical exercise facilities, education management, library information, teacher qualifications, admission standard and clinical training, and so on. These requirements were announced well in advance in 2002 for compliance and observance by institutions.

- (b) In accordance with the requirements set down for an approved course for the Licensing Examination as mentioned above, the full-time undergraduate degree courses in Chinese medicine offered by three local universities, namely the University of Hong Kong, The Chinese University of Hong Kong and Hong Kong Baptist University, are recognized by the Practitioners Board as approved courses for the Licensing Examination.

We are aware that a range of full-time or part-time courses in Chinese medicine, including various certificate and diploma programmes, are offered by a number of tertiary institutions in Hong Kong. It should be noted that, unless these programmes can fulfil

the basic requirements of an approved course and have been approved by the Practitioners Board, their graduates are not eligible to undertake the Licensing Examination.

Since the Licensing Examination was first conducted in 2003, there have been a total of 62 students of local Chinese medicine courses whose applications for undertaking the Licensing Examination have been declined. These applicants include those who have not satisfactorily completed an approved course or those who have completed a course which has not been approved by the Practitioners Board. We do not maintain detailed statistical data and the placement information in respect of these applicants. The Practitioners Board has reminded all institutions that they have to make clear to students enrolling in courses which have not been approved by the Practitioners Board that they will not be eligible to undertake the Licensing Examination upon completion of the courses.

Provision of Supplements to Subvented Residential Care Homes for Elderly for Taking Care of Infirm and Demented Residents

11. **MR LEUNG KWOK-HUNG** (in Chinese): *President, I have often received complaints from front-line workers of subvented care and attention homes for the elderly (C&AHs) that many residents of these homes are in need of nursing or infirmary care services, yet there is a shortage of manpower due to insufficient government funding, which seriously affects the quality of service and increases front-line workers' risk of sustaining injuries. Although in the current financial year, the authorities have provided additional funding of \$37 million to residential care homes for the elderly (RCHEs) for taking care of infirm elderly residents and those with dementia, the provision is only a drop in the bucket and far from enough for meeting the extra expenses for taking care of these residents. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective current numbers of subvented C&AH residents who are in need of infirmary care services, those who are in need of nursing care services and those with dementia;*
- (b) *of the respective amounts of Infirmary Care Supplement (ICS) and Dementia Supplement (DS) granted by the Government in 2008-2009; the respective names of the C&AHs which were granted*

the highest and the lowest amounts of such supplements, the amounts involved and the numbers of these two categories of residents in those C&AHs; what criteria the Social Welfare Department (SWD) has adopted for determining the amounts of supplements granted to various C&AHs; whether the percentage of the amounts of supplements granted in the total subvention is the same for various C&AHs; and why the Government did not grant the supplements to C&AHs according to the number of the residents concerned;

- (c) whether it will grant subvention to C&AHs according to the cost of each nursing home place (that is, \$12,609 per month) and the number of residents in need of nursing care service; if so, when it will be implemented; if not, of the reasons for that; and*
- (d) as the Report of the Director of Audit on the results of value for money audits published in March 2002 pointed out that the cost of a nursing home place for caring an elderly resident in need of infirmary care service amounted to \$18,625 a month, whether the Government will grant subvention to subvented C&AHs and nursing homes based on this amount and the number of residents in need of infirmary care service; if so, when it will be implemented; if not, of the reasons for that?*

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

- (a) to (b)

To enhance the support for infirm and demented elders staying in subsidized residential care places, the Government has since 1995-1996 provided ICS to RCHEs. The Government also provides DS to RCHEs since 1998-1999. RCHEs can make use of these supplements to employ additional staff, including physiotherapists, occupational therapists, nurses (registered or enrolled nurses), health workers and care workers, and so on, to enhance the care for needy elders.

On ICS, the eligibility of elders for the supplement is assessed by the Hospital Authority (HA)'s Community Geriatric Assessment Teams

(CGATs). The SWD then allocates ICS to individual RCHEs according to the number of eligible elders confirmed by the HA every year. Eligibility for ICS was extended to private RCHEs participating in the Enhanced Bought Place Scheme (EBPS) in 2003-2004.

On DS, the SWD invites applications from subsidized RCHEs and the HA's Psychogeriatric Teams (PGTs) assess the eligibility of those elders for DS. The SWD then allocates DS to individual RCHEs based on the number of eligible elders confirmed by the HA every year. In 2009-2010, eligibility for DS was extended to private RCHEs participating in EBPS.

In 2008-2009, the total amount of ICS allocated was \$45.4 million, providing additional support for a total of 1 226 elders. The total amount of DS allocated was \$24.3 million, benefiting a total of 2 542 elders.

To further strengthen the support for these elders, the Government has provided additional recurrent funding of \$20 million as ICS and \$17 million as DS in 2009-2010. The total provision for ICS and DS has significantly increased by 44% and 70% respectively compared with that in 2008-2009.

- (c) As at March 2009, about 170 elders (less than 1%) out of some 20 000 elders staying in subsidized care-and-attention places were waiting for subsidized nursing home places. Apart from ICS and DS mentioned above, the Government has been supporting RCHEs in many ways to enhance their capability in taking care of elders. In particular, doctors and nurses of the HA's CGATs and PGTs, as well as the Department of Health (DH)'s Visiting Health Teams, pay regular visits to RCHEs to provide medical assessments and support services for elderly residents in need. Community nurses will also provide on-site nursing care for elderly residents to ensure that they receive appropriate care.
- (d) The Director of Audit recommended in his Report No. 38 published in 2002 that the then Health and Welfare Bureau should consider whether infirmary care should be provided in a welfare institution setting instead of in a hospital setting.

Drawing reference to the Audit Commission's recommendation, the SWD proposed to launch a trial scheme to provide subsidized infirmary care services for medically stable frail elders in purpose-built RCHE premises. Taking into account the opinion of the welfare sector, the Government considered that upgrading some of the places in existing subvented RCHEs to provide infirmary care services might be more cost-effective. In 2007 and 2008, the SWD discussed with the sector details of the upgrading plan, including the increase of subsidy amount and other requirements (especially manpower requirements for nurses). However, the sector indicated that they were not able to employ adequate nurses to fulfil the DH's licensing requirements owing to the shortage of nurses (especially registered nurses). The SWD is exploring other options, and at the same time, organizing enrolled nurse training programmes in collaboration with the HA. In addition, in view of the acute demand for registered nurses in both public and private health care institutions as well as in the welfare sector, the University Grants Committee has adopted the Government's advice to increase study places for nursing in its institutions. The HA will also continue to organize the higher diploma nursing programme in three hospitals with a view to increasing the supply of nurses.

Tree Conservation Work of LCSD

12. **MISS TANYA CHAN** (in Chinese): *President, at the special meeting of the Finance Committee on 27 March 2009, the Director of Leisure and Cultural Services indicated that the Leisure and Cultural Services Department (LCSD) had to inspect and manage more than 700 000 trees. Moreover, it has been reported that certain LCSD staff complained about the substantial increase in their workload as a result of the Government stepping up tree inspection work recently. In this connection, will the Government inform this Council:*

- (a) *of the respective number of trees regularly inspected and managed by LCSD staff, as well as the reasons for some trees not being inspected regularly;*
- (b) *of the current detailed procedures and contents of such procedures for keeping records, writing reports, taking follow-up actions as well as storing the relevant files in relation to tree inspections by LCSD staff;*

- (c) *of the daily average number of trees that each LCSD staff member concerned needs to inspect and conserve;*
- (d) *whether the LCSD has increased the manpower concerned and created temporary posts to tie in with the enhanced tree inspection work; if it has, of the details; if not, the reasons for that; and*
- (e) *of the current number of LCSD staff who are in possession of internationally recognized qualifications in tree management and caring; of the contents of the training provided by LCSD to its staff on tree inspection; and whether the LCSD will strengthen or revise the training contents to meet the present needs; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) The LCSD manages and maintains about 760 000 trees in public parks and roadside amenity areas under its purview. It inspects all these trees regularly.
- (b) Staff of the LCSD will record the relevant information of the tree inspected (such as its species, location, and so on) and the date of the inspection. If the tree inspected has a problem, a report on it will be prepared and its conditions of growth recorded. Information on any abnormal defoliation signs, leaning trunk or infestation by pests and diseases, and so on, will be recorded for identification of the required tree care work which will then be carried out accordingly.
- (c) As trees vary in size, distribution, growing environment, health condition and the caring work required, we cannot calculate the average number of trees examined by the inspection staff on a daily basis. By way of reference, in venues with on-site LCSD staff, the trees planted therein are inspected by the on-site staff every day. For venues without on-site staff, the trees planted therein are inspected routinely by the staff who look after the venues. The trees not listed on the Register of Old and Valuable Trees are inspected at least once a year, while those listed on the Register are inspected at least twice a year by staff of the LCSD.
- (d) The LCSD is currently reviewing its manpower resources for tree care work and the training needs of staff. The scope of the review

covers the organization of the tree teams and their deployment, the operation of the tree teams in the urban areas and the New Territories, enhancement of training for staff in the tree teams, the deployment policy and succession plan for staff in the tree teams, and so on. Upon completion of the review, we will seek additional resources for tree care work as necessary.

- (e) There are currently 42 Certified Arborists of the International Society of Arboriculture in the LCSD. Among them, seven have attended overseas training and obtained other certificates in arboriculture. Apart from the above 42 Certified Arborists, four other LCSD staff members have also attended courses relevant to arboriculture abroad and obtained the associated certificates. As regards arboriculture training for staff, the LCSD has been strengthening and revising its training programmes to meet the operational needs of its staff. Such training programmes include internal training courses provided by the LCSD's Training Section on tree climbing, tree inspection, pruning, operation of arboriculture instruments (for example, chain saw), and so on. The LCSD is planning to increase the number of internal training places. Moreover, the LCSD also invites overseas experts to Hong Kong every year to conduct training courses on arboriculture for its staff, including training on tree risk assessment. The LCSD is also planning to allocate more resources for training so as to invite more local and overseas arboriculture experts to hold seminars and arboriculture workshops to continuously update its staff with arboricultural knowledge. The LCSD will continue to arrange for its staff to attend overseas diploma or certificate courses with a view to enhancing their qualifications on arboriculture and enabling them to learn from the relevant experience of other countries.

Construction of Joint Hostels for Tertiary Students

13. **MR ABRAHAM SHEK** (in Chinese): *President, at the end of last year, the Government indicated that it was planning the construction of joint hostels for common use by students from various institutions funded by the University Grants Committee (UGC) and it had preliminarily identified two sites. The Government and UGC were liaising with various institutions on the specific proposals. In this connection, will the Government inform this Council:*

- (a) *of the progress of the aforesaid plan; whether the authorities will introduce measures to expedite the vetting and approving of the relevant projects, so as to meet the additional demand for hostel places arising from the implementation of the four-year undergraduate curriculum and the development of Hong Kong as an education hub;*
- (b) *as it has been reported that the Government has initially agreed to allocate a site in Ma On Shan to construct the first joint hostel, of the user institutions of this hostel, the design to be adopted, the progress of planning work, the number of hostel places to be provided, and the expected dates for the commencement and completion of the construction work; and*
- (c) *whether it has any plan to construct joint hostels in Tseung Kwan O and Kowloon Tong; if so, of the details of the plan; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President, to cater for the additional demand for student hostel places arising from the implementation of the four-year undergraduate curriculum and the further development of Hong Kong as a regional education hub, a number of UGC-funded institutions are actively planning student hostel development projects, and the Legislative Council has approved funding for some of them.

Apart from developing hostels on campus, in view of the scarcity of suitable land within or near the institutions (particularly in the urban area) for hostel development, the Administration has been exploring with the institutions the development of off-campus "joint hostels" for their shared use. Joint hostels will be processed in line with the existing hostel policy, and their funding requirements will be dealt with under the established procedures of the UGC-funded sector.

One of the suitable sites for joint hostel development is in Tseung Kwan O. The Hong Kong University of Science and Technology and Hong Kong Baptist University will participate in this joint hostel project and the Sai Kung District Council has been consulted on the proposed development. It is estimated that the project will be submitted to the Legislative Council Public Works Subcommittee and Finance Committee for consideration in 2011. Subject to funding approval by the Finance Committee, the two universities plan to begin

construction works in the second half of 2011, with a view to completing the project by the end of 2013.

We have also identified a potential site for joint hostel development in Ma On Shan. We are currently discussing detail proposal of developing a joint hostel at the site with the institutions. We will consult local residents and seek funding approval from the Legislative Council Finance Committee in due course. Meanwhile, we will continue to identify other suitable sites for student hostel development.

Commercial Vehicle Insurance Provided by Insurance Companies

14. **MS MIRIAM LAU** (in Chinese): *President, some people from the transport industry have relayed to me that currently there are only a few insurance companies operating the business of commercial vehicle insurance. Due to insufficient competition, the premiums concerned have all along been on the high side. Most owners of taxis and public light buses have therefore chosen to take out insurance with a small-scale insurance company which charged lower premiums, against which the court has recently issued a provisional liquidation order. In this connection, will the Government inform this Council:*

- (a) *whether it knows which insurance companies currently operate the business of commercial vehicle insurance, the general level of the premiums charged by them and the respective highest and lowest premiums;*
- (b) *whether it knows the rate of increase in the premiums concerned in the past three years; whether it has looked into the causes for the substantial increase in premiums for commercial vehicles in recent years;*
- (c) *as I have learnt that some insurance companies are planning to increase premiums for commercial vehicles substantially, whether the authorities have any regulatory measure to ensure that the premiums for commercial vehicles are set at a reasonable level; whether they will adopt measures to encourage more insurance companies to operate such business, with a view to increasing market competition so that the premiums can be maintained at a reasonable level or even lowered; and*

- (d) *whether it has explored if public confidence in insurance companies has been shaken by the liquidation of the aforesaid insurance company; if so, what measures the Government has to strengthen the regulation of insurance companies (such as specifying the statutory financial requirements), so as to avoid the recurrence of similar incidents?*

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

- (a) In 2008, there were a total of 47 insurance companies in Hong Kong (names of the companies listed at Annex) providing insurance services for various classes of commercial vehicles including taxis, public light buses, goods carrying vehicles and tractors.

Based on the provisional data provided by the insurance companies to the Office of the Commissioner of Insurance (OCI) on the total premiums receivable^{Note} and the number of vehicles insured in 2008, the OCI has calculated the average premiums for the three different classes of commercial vehicles *viz* taxis, public light buses, and goods carrying vehicles and tractors to be \$9,252, \$20,846 and \$5,547 respectively.

As the OCI does not have information on the premiums chargeable to individual commercial vehicles by individual insurance companies, they cannot provide data on the highest and lowest premiums.

- (b) The average premiums calculated based on the operating statistics provided by the insurance companies to the OCI in respect of various classes of commercial vehicles in the past three years are shown in the table below:

(HK\$)

Classes of vehicles	2006		2007		2008 (provisional figures)	
	Premiums receivable ^{Note}	Change (%)	Premiums receivable ^{Note}	Change (%)	Premiums receivable ^{Note}	Change (%)
Taxis	8,606	-19.2%	7,797	-9.4%	9,252	18.7%
Public light buses	21,772	-9.7%	21,241	-2.4%	20,846	-1.9%
Goods carrying vehicles and tractors	5,574	-8.6%	5,495	-1.4%	5,547	0.9%

^{Note} The premiums receivable are net of all discounts, including no claim discount.

The above figures show a reduction in the average premiums receivable for all classes of commercial vehicles in 2006 and 2007. There was a 19% increase in the average premiums receivable for taxis based on provisional figures for 2008, which is believed to be related to the increasing amount of compensation required to be paid out by insurance companies to claims arising from traffic accidents that has resulted in continued losses suffered by the commercial vehicle insurance market in the past three years.

- (c) There was a reduction in the insurance premiums chargeable to all classes of commercial vehicles in both 2006 and 2007 (see part (b) of the reply). Similar to other commercial services, insurance companies determine the level of premiums for individual commercial vehicles based on commercial principles by considering their underwriting risks, claim factors, and so on. The OCI will closely monitor the market situation and promote the healthy development of the insurance industry.
- (d) The OCI has been exercising prudential supervision of all insurance companies. The Insurance Companies Ordinance provides that insurers carrying on general insurance business shall maintain assets in Hong Kong to match their local insurance liabilities. The OCI will closely monitor the financial position of the insurance companies, regularly collect and analyse their key operating statistics, and conduct on-site inspections and stress tests, and so on. Where necessary, the OCI will exercise its statutory powers conferred by the Insurance Companies Ordinance to take appropriate intervention actions, such as restricting the amount of premiums that an insurance company can underwrite, or requiring an insurance company to make bank deposits of specified amounts in the name of the Insurance Authority to protect the interests of policyholders.

As regards the case of Anglo Starlite Insurance Company Limited which was taken over by the provisional liquidators due to suspected forgery of its deposit receipts, the OCI has taken effective measures to protect the interests of the insured and the insurance claimants. The OCI will continue to dutifully discharge its statutory regulatory functions to promote the overall stability of the insurance industry and protect the policyholders.

List of Insurance Companies Carrying on Commercial Vehicle Insurance Business in 2008

- 1 Pacific Insurance Company, Limited
- 2 Bank of China Group Insurance Company Limited
- 3 Ming An Insurance Company (Hong Kong) Limited
- 4 AXA General Insurance Hong Kong Limited
- 5 Anglo Starlite Insurance Company Limited (in provisional liquidation)
- 6 Lloyd's Underwriters
- 7 Royal & Sun Alliance Insurance plc
- 8 QBE Hongkong & Shanghai Insurance Limited
- 9 Wing Lung Insurance Company Limited
- 10 American Home Assurance Company
- 11 Asia Insurance Company Limited
- 12 MSIG Insurance (Hong Kong) Limited
- 13 New India Assurance Company Limited
- 14 Zurich Insurance Company
- 15 Tugu Insurance Company, Limited
- 16 People's Insurance Company of China (Hong Kong) Limited
- 17 Target Insurance Company, Limited
- 18 Dah Sing Insurance Company Limited
- 19 Allianz Insurance (Hong Kong) Limited
- 20 Hang Seng General Insurance (Hong Kong) Company Limited
- 21 Falcon Insurance Company (Hong Kong) Limited
- 22 ING General Insurance Company Limited
- 23 Trinity General Insurance Company Limited
- 24 Tokio Marine and Fire Insurance Company (Hong Kong) Limited
- 25 HSBC Insurance (Asia) Limited
- 26 Mitsui Sumitomo Insurance Company (Hong Kong) Limited
- 27 Concord Insurance Company Limited
- 28 AXA China Region Insurance Company (Bermuda) Limited
- 29 Pioneer Insurance and Surety Corporation
- 30 Sompo Japan Insurance Inc.
- 31 China BOCOM Insurance Company Limited
- 32 Nipponkoa Insurance Company (Asia) Limited
- 33 Prudential Assurance Company Limited
- 34 Blue Cross (Asia-Pacific) Insurance Limited
- 35 Sun Hung Kai Properties Insurance Limited
- 36 China Pacific Insurance Co., (H.K.) Limited
- 37 GAN Assurances IARD Compagnie Francaise D'Assurances Et De Reassurances Incendie, Accidents Et Risques Divers
- 38 Chevalier Insurance Company Limited
- 39 China Overseas Insurance Limited
- 40 Chong Hing Insurance Company Limited
- 41 California Insurance Company Limited
- 42 Wing Hang Zurich Insurance Company Limited
- 43 Assicurazioni Generali Società per Azioni
- 44 Ming An Insurance Company (China) Limited
- 45 Federal Insurance Company
- 46 Min Xin Insurance Company Limited
- 47 ACE Insurance Limited

Addition or Alteration Works Carried Out in Private Buildings

15. **MR LEE WING-TAT** (in Chinese): *President, regarding addition or alteration works carried out in private buildings, will the Government inform this Council:*

- (a) *of the number of applications received in each of the past five years by the Buildings Department (BD) for carrying out the aforesaid works and, among them, the number of those proposed to be carried out in the common areas of buildings without the consent of owners' corporations (OCs), owners' committees or other co-owners of the buildings concerned, as well as the number of works proposed to be carried out in private premises without the consent of the owners of the premises concerned; together with a breakdown by the category of works and the outcome of the application;*
- (b) *whether the BD has, when approving addition or alteration works to be carried out in the common areas and private premises of buildings, required the applicants to take out public liability insurance for the works and structures concerned so as to protect the public;*
- (c) *when the BD has learnt that public safety will be affected by the addition or alteration works carried out in the common areas of buildings without the consent of the OCs, owners' committees or co-owners concerned, whether it will inform the Home Affairs Department so that the latter will send staff to assist the OCs, owners' committees or co-owners concerned to follow up; and*
- (d) *what measures the authorities have in place to assist OCs, owners' committees and co-owners in stopping addition or alteration works from being carried out without their consent in the common areas of the buildings concerned, so as to protect public safety and the rights of the owners concerned?*

SECRETARY FOR DEVELOPMENT (in Chinese): *President, the reply to the four-part question is as follows:*

- (a) *In the past five years, the BD has received a total of 7 925 applications for vetting and approving building plans in respect of*

addition or alteration works proposed to be carried out in private buildings (including residential, commercial, industrial and composite buildings). Of these applications, 6 976 have been approved by the Building Authority. The details are shown in the following table:

<i>Year</i>	<i>No. of applications for vetting and approving building plans for addition or alteration works^(Note)</i>	<i>No. of applications approved</i>
2004	1 166	958
2005	1 437	1 234
2006	1 681	1 431
2007	1 869	1 729
2008	1 772	1 624
Total	7 925	6 976

(Note: An application submitted in a particular year may not necessarily be approved in the same year.)

The BD has no records as to whether the applicants have obtained consents from the OCs, owners' committees or building owners for carrying out the relevant works. Neither does the BD have statistical breakdown on the nature of the addition or alteration works mentioned above.

- (b) Building management is the fundamental responsibility of owners. The Administration has been, through various channels, reminding OCs and owners of the safety matters that they should pay attention to when carrying out building works, including the importance of procurement of suitable public liability insurance. Although the main objective of the Buildings Ordinance (Cap. 123) (BO) is to regulate the safety and health standards of private buildings and matters relating to building management and procurement of public liability insurance are not covered by it, to ensure public safety, the BD will request contractors to take necessary precautionary measures when granting approval of building plans and consent to the commencement of the works if the concerned works are to be carried out in the common areas of a building. In implementing the minor works control system, the BD will also remind the public of the importance of procuring insurance through a series of public

education programmes. The Home Affairs Department will continue to proactively encourage OCs and other owners' organizations to procure third party risk insurance for the common parts of their buildings so as to safeguard the interest of the owners and the public.

- (c) If the BD, in the course of vetting and approving building plans, finds that the relevant building works are to be carried out in the common parts of a building which has established an OC or engaged a management company, the Department will send a letter to inform the OC or management company after approving the plans. The BD will also draw the applicant's attention to section 14(2) of the BO, that is, neither the approval of any plans nor the consent to commencement of any works given by the BD shall be deemed to confer any title to land, or to act as a waiver of any term in any lease or licence. The applicant should on its own obtain consent from the OC or owners of the building before carrying out the works in the common parts of the building.

Besides, if the BD receives a complaint about unauthorized building works in progress and confirms after investigation that there are building works in the common parts of the buildings not approved by the BD, the Department will send an advisory letter to the concerned owners/occupiers advising them to cease the unauthorized works. To facilitate the OC to follow up, the BD is planning to copy the relevant advisory letter to the concerned OC and the local District Office. If needed, the OC may contact the local District Office to seek opinion and assistance. If the concerned parties do not observe the advice, the BD will take appropriate follow-up actions in accordance with the existing enforcement policy against unauthorized building works.

- (d) To safeguard the interest of owners in the common parts of a building, the Building Management Ordinance (Cap. 344) stipulates relevant provisions to prohibit any person from converting the common parts of a building to his own use without the consent of the owners' committee or the OC. The Building Management Ordinance also empowers an OC to maintain the common parts of the building in a state of good and serviceable repair condition, and to carry out any renovation, improvement or decoration works to the

common parts of the building. If any person carries out addition or alteration works to the common parts of the building without the consent of the OC, the OC can stop or restore the works and claim damages from the concerned party. If needed, an OC can visit the Hong Kong Housing Society's Property Management Advisory Centres to seek free legal advice.

The Administration will continue to enhance publicity and education. For instance, during the implementation of the minor works control system, the BD will include in the specified form to be submitted to the Building Authority by the registered contractors a remark reminding owners that they should consult other co-owners before carrying out works in the common parts of a building and should be mindful of the civil liabilities under the deed of mutual covenant of the building.

Measures to Assist Hong Kong Enterprises and Ease Unemployment Problem

16. **DR LAM TAI-FAI** (in Chinese): *President, the Chief Executive put forward the policy objective of "supporting enterprises and preserving employment" at the end of last year, and indicated that support to Small and Medium Enterprises (SMEs) was an important part of preserving employment. Yet, the impact of the global financial tsunami has still not receded, and the Hong Kong economy has remained weak, coupled with the recent spread of human swine influenza (swine flu) globally, enterprises will be facing greater difficulties in operating and financing, thus leading to a continuous increase in the unemployment rate. Regarding the present situation of "supporting enterprises and preserving employment", will the Government inform this Council:*

- (a) *whether it will consider expanding the coverage of the Special Loan Guarantee Scheme (SLGS) to allow eligible mainland banks to participate in the scheme, and providing 70% guarantee for commercial loans granted by such banks to Hong Kong enterprises on the Mainland, so as to assist such enterprises in financing; if not, of the reasons for that;*
- (b) *whether it will increase the flexibility of the loan guarantee ratio under SLGS, and provide different ratios of loan guarantee for*

different levels of loans (such as a loan guarantee ratio of 80% for the first \$2 million of loan or below, 75% for the next \$2 million or below, and 70% for the remaining amount); if not, of the reasons for that;

- (c) whether it will consider lifting the ceiling for loan guarantee under SLGS; if it will, of the details; if not, the reasons for that;*
- (d) whether it will increase the loan guarantee ratio of the SME Loan Guarantee Scheme (SGS) from 50% to 70%, making it on a par with SLGS; if not, of the reasons for that;*
- (e) whether it will consider making reference to the loan guarantee scheme provided for the four sectors (that is, travelling, catering, retailing and entertainment) which were affected by the Severe Acute Respiratory Syndrome in 2003, and establishing a similar loan guarantee scheme providing 100% loan guarantee for sectors which have been hard hit by swine flu;*
- (f) apart from the existing SGS and SLGS, whether the Government will launch other schemes or measures in "supporting enterprises and preserving employment" to assist SMEs; if it will, of the details, if not, the reasons for that; and*
- (g) given that banks are still tightening credit facilities and SMEs are hiring fewer employees in face of financing difficulties, whether the authorities have assessed the resultant increase in unemployment rate when a large number of local students graduate and look for jobs in June and July this year, as well as whether it will adopt counter measures to solve the unemployment problem?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Government launched the Special Loan Guarantee Scheme (SpGS) on 15 December 2008 to provide 70% guarantee for commercial loans granted to eligible enterprises. The total guarantee commitment is \$100 billion. As at 18 May 2009, we have approved more than 8 000 applications, involving a total loan amount of around \$15.1 billion.

As regards Dr LAM Tai-fai's questions, our replies are as follows:

(a) According to the conditions of the SpGS, all authorized institutions under the Banking Ordinance, including banks, restricted licence banks and deposit-taking companies, are eligible to participate in the Scheme. The Hong Kong branches or offices of mainland banks may also participate in the Scheme if they meet the above criteria. In fact, several banks belonging to this category have already joined the SpGS. We have no plans to change the eligibility criteria for participating lending institutions (PLIs) at this stage.

(b), (c), (e) and (f)

The application period of the SpGS will expire in mid-June. We are now reviewing the effectiveness of the Scheme, whether to extend and improve it, and whether there are other feasible measures to assist SMEs. We will take into consideration all factors, including views of the trade, lending institutions and Members of the Legislative Council. The Chief Executive has indicated last week that the relevant measures would be announced within one month.

(d) The SGS is a long-standing scheme, while the SpGS is a time-limited measure that aims to provide immediate relief to enterprises amid the financial tsunami. The objectives of the two schemes are different, hence their detailed features, including the scope and the Government's guarantee ratio, are also different. We believe that having both schemes in parallel can provide greater flexibility to the trade.

(g) According to past data, fresh graduates normally join the labour market between June and August, thereby increasing the labour supply. During economic downturn, the unemployment rate would rise more notably. As the global economy remains weak at the moment, the unemployment rate is expected to face upward pressure. To assist graduates to enter the labour market as early as possible and to enhance their employability, the Labour Department (LD) will integrate and enhance various employment programmes. For instance, the "Youth Pre-employment Training Programme" and the "Youth Work Experience and Training Scheme" will be enhanced and combined into a through-train programme comprising both

pre-employment and on-the-job training, thus providing seamless and comprehensive youth training and employment support. In addition, the LD will in August this year launch the "Internship Programme for University Graduates" to provide an additional option for university graduates to gain work experience and broaden their horizon, as well as to nurture talents for Hong Kong.

Packaging Materials Discarded at Landfills

17. **MR KAM NAI-WAI** (in Chinese): *President, it has been reported that most of the toy eggs (commonly known as "twisted eggs") which are on sale in the market will eventually be discarded at landfills, which not only increases the burden on landfills, but also results in wastage. Moreover, the packaging materials of other products (for example, mooncake boxes, Chinese New Year gift packaging) also produce a lot of waste. In this connection, will the Government inform this Council:*

- (a) *whether it knows the respective numbers of toy eggs which were recovered and discarded at landfills in the past three years, as well as the current number of retailers or manufacturers who provide recovering services for toy eggs;*
- (b) *of the situation of various kinds of packaging materials being discarded at landfills in the past five years, and whether it has requested manufacturers to use less packaging materials, so as not to increase the burden on landfills;*
- (c) *whether it has studied bringing toy eggs and packaging materials within the ambit of the Product Eco-responsibility Ordinance (the Ordinance) (Cap. 603), and considered imposing environmental levies on toy eggs and packaging materials; if so, of the details; and*
- (d) *apart from carrying out public education, whether it will consider adopting other measures (including requiring manufacturers to use recyclable materials, and requiring manufacturers and retailers to recover toy eggs and packaging materials), so as to reduce the amount of packaging materials discarded at landfills; if so, of the details; if not, the reasons for that?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) No statistics on the disposal or recovery of toy eggs is available from the Environmental Protection Department (EPD). At present, some retail outlets with toy eggs vending machines provide recovery services for toy eggs. The current Programme on Source Separation of Waste and the waste separation facilities also enable members of the public to recover and recycle toy eggs.
- (b) Packaging materials do not form a separate category under the EPD's statistics for waste separation. In general, carton boxes/paper, plastic bags/containers, glass containers and metal containers can be used as packaging materials or food/beverage containers. According to the EPD, the quantities of the above materials disposed of at landfills over the past five years are as follows:

<i>Year</i>	<i>Quantities of various materials disposed of at landfills (tonnes)</i>			
	<i>Carton boxes/paper/drink containers</i>	<i>Expanded polystyrene and plastic bags/containers</i>	<i>Glass containers</i>	<i>Metal containers such as steel/aluminium cans</i>
2004	184 500	404 000	103 300	50 600
2005	176 100	388 200	102 400	51 600
2006	163 100	319 600	94 800	45 800
2007	193 600	306 300	95 700	47 400
2008	215 600	337 000	101 800	47 400

The Government has been, through publicity and education, encouraging the trade to reduce at source and recycle waste. The EPD also calls on and assists the local manufacturers and the respective trades in launching waste reduction programmes targeting individual packaging materials. Since 2005, the EPD has provided mooncake manufacturers with environmental guidelines on packaging design with a view to reducing packaging waste and facilitating recycling. Last year, the EPD and major mooncake manufacturers entered into the Voluntary Agreement on Management of Mooncake Packaging. In parallel, the EPD also collaborated with the trade to launch a recovery programme for mooncake containers during the Mid-Autumn Festival so as to strengthen the environmental management of the packaging

materials for mooncakes. In addition, the EPD has collaborated with green groups to launch the Green Festival through the public education and partnership programme for the "Policy Framework for the Management of Municipal Solid Waste (2005-2014)" under the Environment and Conservation Fund. The activities include promotional campaigns on reducing festive wrapping paper during Christmas and Lunar New Year, to encourage retailers and the public to reduce avoidable festive packaging for waste reduction at source.

- (c) In 2008, the Ordinance was enacted by the Legislative Council. It provides the legal basis for introducing producer responsibility schemes (PRS's) on various products. The Product Eco-responsibility (Plastic Shopping Bags) Regulation was passed by the Legislative Council on 23 April 2009. The environmental levy scheme on plastic shopping bags, the first PRS under the Ordinance, is expected to be implemented in July this year. The Government will then study the possibility of introducing a mandatory PRS for electrical and electronic products. We intend to consult the public and the trade on the proposed legislation in 2009. The arrangement to bring other products (including packaging materials) within the ambit of the Ordinance will be reviewed; and
- (d) Apart from introducing mandatory PRS's by legislation, the EPD has by various means been implementing measures to reduce the disposal quantities of packaging materials.

On reducing the disposal quantities, more commonly used packaging materials (such as paper, plastics and metals) are generally recyclable, whereby the current Programme on Source Separation of Waste and the waste separation facilities enable members of the public to recover and recycle these materials. Separately, we have been promoting and supporting the voluntary recovery programmes for packaging materials launched by the trade. In addition to the recovery programme for mooncake containers mentioned above, the EPD and the Hong Kong Hotels Association are jointly promoting a voluntary Glass Container Recycling Programme for the Hotel Sector, in order to further boost recovery and re-use of glass. We will consider feasible ways to extend the recovery of glass containers to more hotels and other sectors.

Enshrining the "polluter-pays" principle, the Government will implement various policy tools to provide economic incentives to induce behavioural changes in the public to reduce the generation of waste. However, we cannot solely rely on legislative means to regulate the entire process from production to disposal of the vast variety of consumer products available in the market. Public participation is important for successful waste reduction and recycling. While consumers have free choices of products, we hope that members of the public would change the habit of excessive consumption, and would consider the environmental aspects when making purchases of consumer products. This may help induce the manufacturers to reduce excessive packaging.

Aberdeen Tourism Project

18. **MR PAUL TSE** (in Chinese): *President, regarding the Aberdeen Tourism Project (the Project) under the concept of a fisherman's wharf, will the Government inform this Council:*

- (a) *of the total expenditure incurred on various studies for the aforesaid project, which have been conducted by consultants commissioned by the Tourism Commission (TC);*
- (b) *whether the Government had, when it proposed the aforesaid project, considered the synergy among various thematic clusters under the project (including the traditional fishing harbour along the Aberdeen and Ap Lei Chau Promenade, the Fisherman's Wharf at Tai Shue Wan and the leisure and dining node off the coast of Sham Wan), as well as the synergy between these clusters and the entire Southern District;*
- (c) *whether the Government has assessed the negative impact of its recent decision not to implement the aforesaid project on such synergy; if it has, of the details; if not, whether it will conduct the assessment expeditiously; and*
- (d) *given that at its meeting on 27 April this year, the Panel on Economic Development of this Council passed a motion on urging*

the Government to reconsider implementing the aforesaid project, what specific follow-up actions the Government will take in this regard?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, our response is provided as follows:

- (a) The TC appointed a consultant in late 2006 to develop a conceptual design for the Project. The consultancy fee is \$1,280,000.

As the conceptual design comprised a number of commercial developments, we appointed a financial consultant in early 2008 to assess the commercial and financial viability of the conceptual plan, so as to explore the best approach to take forward the project. The consultancy fee is \$1,380,000.

- (b) The conceptual design of the Project is a study which outlines the broad directions for consideration. It covers Aberdeen, Ap Lei Chau, Tai Shue Wan and the areas along both sides of the Aberdeen Typhoon Shelter. The original conceptual design aims to highlight the theme of traditional fishing village whilst injecting certain commercial elements with a view to increasing visitors and enhancing tourism development in the Southern District as a whole.
- (c) Owing to the recent developments in Aberdeen and Ap Lei Chau (for example, the gate of Ocean Park in Tai Shue Wan will no longer be a main entrance upon the Park's redevelopment; part of the land under the Ap Lei Chau Bridge in Sham Wan would be used as the works areas for the Mass Transit Railway (MTR) South Island Line (East) (SIL(E)) and Harbour Area Treatment Scheme (HATS); part of the land at the Ap Lei Chau Northern Reclamation is being developed into a new public park by Leisure and Cultural Services Department, and so on) and the financial consultant's findings which concluded that the conceptual design was not commercially viable, we have decided to adjust the original conceptual design and fund the improvement works for the promenades on both sides of the Aberdeen Harbour and Ap Lei Chau Main Street to showcase the ambience of a fishing village. This will expedite the implementation of the project and can further enhance the general

tourism appeal of the Aberdeen and Ap Lei Chau areas. As the original design was conceptual in nature, no studies on the synergy effect was conducted. In view of the suggestions made by the Economic Development Panel, we shall work with the Hong Kong Tourism Board to see how the Project could complement other attractions and facilities in the area, so as to strengthen the tourism appeal of the whole district.

- (d) We shall push ahead with the proposed improvement works supported by the Southern District Council and the Economic Development Panel. At the same time, we shall form a working group in response to the suggestion of the Panel to examine all objective factors (such as restrictions from lands or planning perspectives) with relevant departments to explore how to enhance the Project promptly. Our work will include the following four elements:
- (i) to examine the feasibility from the planning, environment and transport perspectives of converting the works area of SIL(E) and HATS located under the Ap Lei Chau Bridge into a dining cum entertainment zone featuring seafood cuisine upon completion of the related works (expected to be around 2015);
 - (ii) to explore with concerned departments the feasibility of providing appropriate dining and tourism facilities at the Wholesale Fish Market without affecting its daily operation and the traffic in the vicinity;
 - (iii) to examine whether the "Class III Stationary Vessels" can be preserved and revitalized with a view to turning them into tourist attractions; and
 - (iv) to explore how the transport setting near Ap Lei Chau Main Street can be improved. For example, to examine how to improve the connection between the future Lei Tung Station of SIL(E) and Ap Lei Chau Main Street/waterfront area so as to facilitate visitors and local residents to visit the area.

We will maintain close liaison with the Southern District Council and the tourism industry to gauge their views on the Project, in order to further develop the tourism potential of the area.

Management of Hawker Permitted Areas

19. **MR JAMES TO** (in Chinese): *President, some members of the public have relayed to me that given the current chaotic management of the hawker permitted areas (HPAs) at Tung Choi Street (commonly known as "Women's Street") in Mong Kok, Bowring Street in Jordan and Fa Yuen Street in Prince Edward, they are worried that the re-issuing of Fixed-Pitch Hawker Licences by the Government will lead to deterioration of the hawker management problem. In this connection, will the Government inform this Council:*

- (a) *given that in reply to my written question in June last year, the Government indicated that it had reached a consensus with the hawker association of Women's Street on the improvement of the business environment of that HPA, what improvements have been made to the current business environment of that HPA;*
- (b) *of the respective numbers of complaints involving the above three HPAs received by the Food and Environmental Hygiene Department (FEHD) in each of the past three years, with a breakdown of the number of each HPA by the category to which the complaints belong (such as noise nuisance, obstruction to public passage, operating beyond the permitted business hours, unauthorized expansion of business areas, illegal letting of pitches and impact on environmental hygiene, and so on); the number of cases among them which had been found substantiated, as well as the penalties imposed on the pitch licensees concerned;*
- (c) *as I have received complaints about salespersons illegally occupying pitches in HPAs for conducting sales activities, whether the Government has looked into the aforesaid situation; whether the Government has prosecuted such persons; if it has, of the number of prosecutions instituted in the past three years; and*
- (d) *of the progress of the current review of re-issuing Fixed-Pitch Hawker Licences and the latest situation of developing operational guidelines on various practical arrangements; what new measures the Government has in place (such as introducing a demerit point system) to solve the HPA management problem?*

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

- (a) The FEHD and the representatives of the hawkers' associations of the Women's Street maintain regular communication and have reached the following consensus in respect of the operation of hawker stalls:
- (i) the operation of hawker stalls should not pose fire hazard nor obstruct emergency vehicular access;
 - (ii) the operation of hawker stalls should not cause environmental hygiene nuisance, obstruct air circulation nor cause serious blockage of natural light;
 - (iii) hawkers should allow adequate space for pedestrian access, so as to avoid affecting the business environment of the stalls and shops in the vicinity; and
 - (iv) the design of the hawker stalls should be standardized as much as possible, so as to improve the overall streetscape of "Women's Street".

Through concerted efforts, the overall business environment of "Women's Street" has been improved. The hawker stalls do not obstruct emergency vehicular access. Moreover, the hawker representatives have come to an agreement on the standardized design of the hawker stalls.

(b) and (c)

The information on the complaints received by the FEHD concerning the fixed hawker pitches at Tung Choi Street, Fa Yuen Street and Bowring Street as well as the prosecutions (including statutory penalties) taken in the past three years are set out at Annex I and Annex II respectively. The fine imposed by the court ranged from \$100 to \$1,500.

Besides, the FEHD has not received in the same period complaints about salespersons illegally occupying pitches in the Tung Choi

Street, Fa Yuen Street and Bowring Street HPAs for conducting sales activities; nor has this kind of irregularities been found in these HPAs. The FEHD will continue to closely monitor the operation of the fixed hawker pitches. If illegal occupation of vacant hawker stalls or activities of unlicensed hawkers are found during inspections, the FEHD will take law-enforcement actions and initiate prosecutions. The figures of the relevant prosecutions are at Annex II.

- (d) The Food and Health Bureau and the FEHD have completed the review on hawker licensing policy and the recommendations therein were endorsed by the Legislative Council Panel on Food Safety and Environmental Hygiene in April this year. For fixed-pitch hawkers, provided that the current number of fixed pitches remains unchanged, the Administration will allow fixed-pitch hawkers to expand into adjacent vacant pitches to enlarge their operating areas while paying the relevant fees. The remaining vacant pitches will be made available for application and selection by balloting by anyone interested in the hawking trade and a fixed-pitch hawker licence will be issued to them for trading in these vacant pitches. The FEHD is now drawing up guidelines for re-issuing new fixed-pitch hawker licences. It is expected that fixed-pitch hawker licensees will be invited in July this year to submit applications for merging with adjacent vacant pitches. Upon completion of this phase, the FEHD will then invite members of the public to apply for new fixed-pitch hawker licences for trading in the remaining vacant pitches.

The FEHD will deploy law-enforcement officers for regular inspections at HPAs and hawker bazaars, so as to check if the business is carried out in person by the licensees and whether the stalls cause any obstruction to passage. Appropriate enforcement actions will be taken against the offenders in accordance with the relevant legislation or hawker licensing requirements. As the operation of hawker stalls is different from that of licensed restaurants in general, the Administration has no intention at this stage to introduce a demerit points system similar to the one for food premises to regulate fixed-pitch hawkers.

Annex I

Complaints involving Tung Choi Street HPA

Numbers of Complaints

From 1 January 2006 to 30 April 2009, the FEHD received a total of 137 complaints involving Tung Choi Street HPA. A breakdown by year and category is as follows:

<i>Date</i>	<i>Obstruction of public places</i>	<i>Extension of business area or occupation of pitches</i>	<i>Noise nuisance</i>	<i>Illegal letting of pitches</i>	<i>Operating beyond the permitted trading hours</i>	<i>Other complaints (for example, environmental hygiene nuisance, illegal connection to electricity supply, licensees not operating business in person, and so on)</i>	<i>Total</i>
1 January 2006 - 31 December 2006	30	3	0	1	0	18	52
1 January 2007 - 31 December 2007	15	2	3	0	0	12	32
1 January 2008 - 31 December 2008	16	1	4	0	0	17	38
1 January 2009 - 30 April 2009	8	1	0	0	0	6	15
Total number of complaints:	69	7	7	1 ⁽¹⁾	0	53	137

Note:

(1) The complaint was found unsubstantiated after investigation.

Complaints involving Fa Yuen Street HPA

Numbers of Complaints

From 1 January 2006 to 30 April 2009, the FEHD received a total of 159 complaints involving Fa Yuen Street HPA. A breakdown by year and category is as follows:

<i>Date</i>	<i>Obstruction of public places</i>	<i>Extension of business area or occupation of pitches</i>	<i>Noise nuisance</i>	<i>Illegal letting of pitches</i>	<i>Operating beyond the permitted trading hours</i>	<i>Other complaints (for example, environmental hygiene nuisance, illegal connection to electricity supply, licensees not operating business in person, and so on)</i>	<i>Total</i>
1 January 2006 - 31 December 2006	31	6	3	2	0	14	56
1 January 2007 - 31 December 2007	31	3	1	3	0	5	43
1 January 2008 - 31 December 2008	23	8	0	2	0	10	43
1 January 2009 - 30 April 2009	10	0	1	0	0	6	17
Total number of complaints:	95	17	5	7 ⁽¹⁾	0	35	159

Note:

(1) The complaint was found unsubstantiated after investigation.

Complaints involving Bowring Street HPA

Numbers of Complaints

From 1 January 2006 to 30 April 2009, the FEHD received a total of 11 complaints involving Bowring Street HPA. A breakdown by year and category is as follows:

<i>Date</i>	<i>Obstruction of public places</i>	<i>Extension of business area or occupation of pitches</i>	<i>Illegal letting of pitches</i>	<i>Total</i>
1 January 2006 - 31 December 2006	3	1	0	4
1 January 2007 - 31 December 2007	1	1	1	3
1 January 2008 - 31 December 2008	1	1	1	3
1 January 2009 - 30 April 2009	1	0	0	1
Total number of complaints:	6	3	2 ⁽¹⁾	11

Note:

- (1) The complaint was found unsubstantiated after investigation.

Annex II

Prosecutions Involving Tung Choi Street HPA

Numbers of Prosecutions

From 1 January 2006 to 30 April 2009, the FEHD instituted a total of 1 199 prosecutions involving licensed hawkers at Tung Choi Street HPA and arrested 14 unlicensed hawkers. A breakdown by year and category is as follows:

<i>Date</i>	<i>Obstruction of public places⁽¹⁾</i>	<i>Licensees not operating business at his/her own pitch⁽²⁾</i>	<i>Obstruction to passage caused by extension of business area⁽³⁾</i>	<i>Occupation of pitches to operate business by unlicensed hawkers and causing obstruction⁽⁴⁾</i>	<i>Total</i>
1 January 2006 - 31 December 2006	109	1	7	13	130
1 January 2007 - 31 December 2007	568	0	0	1	569
1 January 2008 - 31 December 2008	449	0	0	0	449
1 January 2009 - 30 April 2009	65	0	0	0	65
Total number of prosecutions:	1 191	1	7	14	1 213

Notes:

- (1) Section 4A of Summary Offences Ordinance: Maximum fine of \$5,000 or imprisonment for three months
- (2) Section 36(2) of Hawker Regulation: Maximum fine of \$5,000
- (3) Section 48 of Hawker Regulation: Maximum fine of \$5,000
- (4) Section 4A (Obstruction of Public Places) of Summary Offences Ordinance: Maximum fine of \$5,000 or imprisonment for three months and Section 83B(1) and (3) of Cap. 132: Maximum fine of \$5,000 or imprisonment for one month

Prosecutions Involving Fa Yuen Street HPA

Numbers of Prosecutions

From 1 January 2006 to 30 April 2009, the FEHD instituted a total of 1 286 prosecutions involving licensed hawkers at Fa Yuen Street HPA and arrested 45 unlicensed hawkers. A breakdown by year and category is as follows:

<i>Date</i>	<i>Obstruction of public places⁽¹⁾</i>	<i>Illegal occupation of pitches⁽²⁾</i>	<i>Hawking a commodity or service not specified in the licence⁽³⁾</i>	<i>Occupation of pitches to operate business by unlicensed hawkers and causing obstruction⁽⁴⁾</i>	<i>Total</i>
1 January 2006 - 31 December 2006	210	0	8	15	233
1 January 2007 - 31 December 2007	481	0	13	17	511
1 January 2008 - 31 December 2008	424	0	10	8	442
1 January 2009 - 30 April 2009	128	2	10	5	145
Total number of prosecutions:	1 243	2	41	45	1 331

Notes:

- (1) Section 4A of Summary Offences Ordinance: Maximum fine of \$5,000 or imprisonment for three months
- (2) Section 36(1) of Hawker Regulation: Maximum fine of \$5,000
- (3) Section 5(2) of Hawker Regulation: Maximum fine of \$5,000
- (4) Section 4A (Obstruction of Public Places) of Summary Offences Ordinance: Maximum fine of \$5,000 or imprisonment for three months and Section 83B(1) and (3) of Cap. 132: Maximum fine of \$5,000 or imprisonment for one month

Prosecutions Involving Bowring Street HPA

Numbers of Prosecutions

From 1 January 2006 to 30 April 2009, the FEHD instituted a total of 77 prosecutions involving licensed hawkers at Bowring Street HPA. A breakdown by year and category is as follows:

<i>Date</i>	<i>Obstruction of public places⁽¹⁾</i>	<i>Illegal occupation of pitches⁽²⁾</i>	<i>Hawking a commodity or service not specified in the licence⁽³⁾</i>	<i>Occupation of pitches to operate business by unlicensed hawkers and causing obstruction⁽⁴⁾</i>	<i>Total</i>
1 January 2006 - 31 December 2006	11	0	0	0	11
1 January 2007 - 31 December 2007	18	0	0	0	18
1 January 2008 - 31 December 2008	17	2	0	0	19
1 January 2009 - 30 April 2009	27	2	0	0	29
Total number of prosecutions:	73	4	0	0	77

Notes:

- (1) Section 4A of Summary Offences Ordinance: Maximum fine of \$5,000 or imprisonment for three months
Section 53(1) of Hawker Regulation: Maximum fine of \$5,000 or imprisonment for one month
- (2) Section 36(1) of Hawker Regulation: Maximum fine of \$5,000
- (3) Section 5(2) of Hawker Regulation: Maximum fine of \$5,000
- (4) Section 4A (Obstruction of Public Places) of Summary Offences Ordinance: Maximum fine of \$5,000 or imprisonment for three months and Section 83B(1) and (3) of Cap. 132: Maximum fine of \$5,000 or imprisonment for one month

Measures to Reduce Emissions of Franchised Buses

20. **MR CHAN HAK-KAN** (in Chinese): *President, earlier, the Administration released a consultant's preliminary findings of the Review of Hong Kong's Air Quality Objectives, and one of the emission reduction measures preliminarily proposed by the consultant was the early retirement of aged/heavily polluting buses by franchised bus companies. In this connection, will the Government inform this Council:*

- (a) of the current number of buses in the fleet of each franchised bus company, broken down by the emission standards which they meet;*
- (b) of the respective numbers of Euro V and Euro IV buses which each franchised bus company plans to purchase in the next five years, and whether they will reduce the number of such buses to be purchased because of the recent economic downturn; if so, of the details;*
- (c) of the latest timetable according to which each franchised bus company plans for the retirement of all Euro II or older buses, and what follow-up measures the authorities have formulated to be taken when the companies fail to replace those buses as scheduled;*
- (d) whether it is currently discussing with the various franchised bus companies the consultant's aforesaid recommendations, so as to commence the next stage consultation; if so, of the progress, and their respective responses;*
- (e) whether it will consider offering financial incentives to encourage various franchised bus companies to advance the retirement of aged buses; and*
- (f) whether it will consider making reference to current regulation on the power companies and including in the future franchise agreements to be signed with franchised bus companies clauses capping their emissions; if so, of the details, and whether it will assess the impact of such new clauses on bus fares?*

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

- (a) A breakdown of the franchised buses by emission standard in the current fleets of the franchised bus companies is at the Annex.*

- (b) Franchised bus companies are required to submit annually to the Transport Department (TD) their Forward Planning Programmes for the next five years, which include proposed programmes for purchasing new buses. Upon receipt of such proposals, the TD will discuss with them to determine the number of buses to be purchased yearly, taking into account factors such as passenger demand as well as improvements to bus safety, the public transport network and the environmental performance of buses. As the TD is discussing with the franchised bus companies their submitted programmes and adjustments may be made, the number of buses that will be purchased in the next five years by individual bus companies cannot be provided at this stage.

Currently, all the franchised bus companies have committed to operating their services with buses under the age of 18. Therefore, the bus companies have to plan for bus replacement before the retirement of old buses to ensure the provision of safe, reliable and efficient bus services. In determining the number of buses to be purchased yearly, the bus companies have to take into account the present and future economic situation, including factors such as changes in service demand.

- (c) All franchised bus companies have honoured their commitment in replacing old buses before they reach the retirement age of 18. Based on the age distribution of the existing franchised buses, it is anticipated that all pre-Euro and Euro I buses will retire by 2012 and 2015 respectively, and all Euro II buses will retire by 2019.
- (d) The Environmental Protection Department has exchanged views with the franchised bus companies on the consultant's preliminary findings of the "Review of Hong Kong's Air Quality Objectives". On the proposal of early retirement of aged/more polluting diesel commercial vehicles (including franchised buses), the franchised bus companies expressed concern on the pressure on their financial positions and bus fares arising from advancing the replacement of old buses. In addition, they also expressed concern on the capability of bus manufacturers to substantially increase the bus supply for the early replacement of the aged/more polluting buses.

- (e) After receipt of the consultant's study report for the "Review of Hong Kong's Air Quality Objectives", the Government will fully consult the public, including Members of the Legislative Council and the relevant stakeholders, and will take into consideration the views collected in the public consultation before deciding on how best to take forward the proposed air quality improvement measures, including the early retirement of aged/more polluting diesel commercial vehicles.
- (f) Unlike electricity generation installations, the current vehicle emission monitoring technologies are not capable of monitoring the actual emissions from the daily operation of some 6 000 franchised buses. Hence, it is technically unfeasible to impose on franchised bus companies emission caps similar to those on power plants.

Annex

As at end of February 2009, the number of buses by emission standard in the fleets of various franchised bus companies is as follows:

	<i>Kowloon Motor Bus Company (1933) Limited</i>	<i>Citybus Limited (Franchise 1)⁽¹⁾</i>	<i>New World First Bus Services Limited</i>	<i>Long Win Bus Company Limited</i>	<i>Citybus Limited (Franchise 2)⁽¹⁾</i>	<i>New Lantao Bus Company (1973) Limited</i>	<i>Total</i>
Pre-Euro	390	48	34	3	0	0	475
Euro I	939	314	85	0	4	2	1 344
Euro II	1 488	368	480	136	166	54	2 692
Euro III	1 100	10	75	18	0	28	1 231
Euro IV	4 ⁽²⁾	10	18	0	0	15	47
Total	3 921	750	692	157	170	99	5 789

Notes:

- (1) "Citybus (Franchise 1)" refers to the franchise held by the Citybus Limited for the provision of Hong Kong Island and cross-harbour bus services, while "Citybus (Franchise 2)" refers to the franchise granted to the same company for the provision of North Lantau and Chek Lap Kok Airport bus services.
- (2) The figure includes one bus which has been retrofitted with a Euro V engine for trial.

BILLS**Resumption of Second Reading Debate on Bills**

PRESIDENT (in Cantonese): We now proceed to the next Agenda item.

Bills. We now resume the Second Reading debate on the Road Traffic (Driving-offence Points) (Amendment) Bill 2009.

Ms Miriam LAU, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

ROAD TRAFFIC (DRIVING-OFFENCE POINTS) (AMENDMENT) BILL 2009**Resumption of debate on Second Reading which was moved on 4 February 2009**

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Road Traffic (Driving-offence Points) (Amendment) Bill 2009 (the Bills Committee), I wish to brief the Council on the main deliberations of the Bills Committee. The Bills Committee held a total of four meetings, one of which was devoted to listening to the views of the public.

The Bills Committee in principle supports the policy objective of the Road Traffic (Driving-offence Points) (Amendment) Bill 2009 (the Bill) as a means of tackling the circumvention problem in the service of summons.

The Bill proposes to amend the Road Traffic (Driving-offence Points) Ordinance (Cap. 375) and the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (the Regulations). The Bill specifies the manner in which a summons issued under Cap. 375 is to be served; provides that a summons served by registered post in accordance with Cap. 375 is deemed to have been served even if it is returned as undelivered; and requires the Commissioner for transport (the Commissioner) to refuse to issue, reissue or renew a driving licence to a person under the Regulations if the person fails to appear in Court to answer a summons served on the person under Cap. 375.

Clause 4 of the Bill amends Cap. 375 by adding a new section 14A. Under this clause, the existing arrangement that a summons issued by a Magistrate is to be served by ordinary post to the driver in the first instance will continue. A new section 14A(5) is proposed in clause 4 to provide that a summons is deemed to have been served if it is served on a person by registered post at the person's address shown in the record of driving licences kept by the Commissioner, even if it is returned undelivered to the person. If the driver fails to appear in Court, a warrant of arrest may be issued against the driver by a Magistrate.

A member has asked the Administration to explain why it is necessary to provide a self-contained mechanism on the service of summons for the Driving-offence Points (DOP) System in particular, and to provide that a DOP summons is deemed to have been served if it is served by registered post, whereas no similar arrangements are made for other types of offences for which the service of summons is also governed by the Magistrates Ordinance (Cap. 227). Members have specifically asked why the circumvention problem in the service of DOP summonses cannot be dealt with by the existing mechanism under section 8 of Cap. 227, and the mechanism for dealing with non-appearance of defendant under section 18A of the same ordinance.

The Administration has explained that section 18A of Cap. 227 provides, amongst others, that a summons must have been served on a person a reasonable time before the hearing. The successful service of the relevant summons is therefore a prerequisite of triggering the provision. A person who seeks to circumvent the DOP System will use different means to avoid receiving the summons to be served on him by hand. For example, the person does not answer the door when the summons is served by hand, or there is no third person to receive the summons on behalf of the person. Consequently, section 8(2)(e) of Cap. 227, which specifies that a summons must be "served by hand", cannot always ensure the successful service of a summons.

The Bill also proposes to add a new section 16(1A) to Cap. 375. The proposed provision provides that a Magistrate is not empowered to order a person to be disqualified from holding or obtaining a driving licence in the absence of that person. The Administration has explained that the purpose of making the new provision is to ensure that a person would not be disqualified from driving

without being given a chance of defending himself in Court. The provision aims to protect the right to fair trial of the person concerned.

The Bills Committee has asked the Administration to provide the reasons for not considering empowering the Commissioner to suspend the driving licence of a driver who has accumulated 15 or more DOPs or in his absence.

The Administration has explained that automatic disqualification is a deviation from the existing provisions under Cap. 375 and may give rise to a number of practical concerns. For example, the driver may not be aware that a disqualification order has been made on him, and is still driving on the road. And, ignorant of the fact that he is disqualified from driving, he may continue to drive and commit the offence of driving whilst disqualified under the Road Traffic Ordinance. Such situations may also give rise to insurance concerns. If a driver causes an accident whilst driving during his automatic disqualification period, an argument as to the effectiveness of the insurance policy during his driving of the vehicle may arise.

In view of members' concern about the effectiveness of the Bill in overcoming the circumvention problem, the Administration has also undertaken to review the effectiveness of the Bill about six months after its implementation. The Bills Committee has noted that The Ombudsman is conducting a study on the procedures of enforcing the DOP System and exploring with the Administration whether it is necessary to adopt additional measures to tackle the circumvention problem. The Administration has undertaken to further consider whether it is necessary to adopt any additional measures on the basis of the views received and to brief the Panel on Transport on the outcome of the review.

Another proposal of the Bill seeks to amend regulation 6 of the Regulations so that the Commissioner shall not issue, reissue or renew a driving licence to a person if the person fails to appear in Court to answer a summons served on him under Cap. 375, including a summons that is deemed to have been served.

A member has asked the Administration to consider proposing that in the above circumstances, the Commissioner shall also refuse issue or renewal of the person's vehicle licence(s), so as to enhance the deterrent effect. The Administration has, however, pointed out that the above proposed measure will

not be able to pinpoint professional drivers who are hired to drive without owning any vehicle.

Members are concerned that by evading incurring DOPs, a driver can evade the accumulation of 15 or more DOPs and will, therefore, not be subject to the "deemed served" provision. In other words, drivers may simply resort to upstream circumvention.

The Administration has advised that DOP offences are dealt with by way of charges, summonses and fixed penalty tickets. The Administration has further explained that if a person has not paid the fixed penalty and has not notified the police that he wishes to dispute liability in writing, then upon the expiry of the specified payment date, the police may under section 3A(1) of the Fixed Penalty (Criminal Proceedings) Ordinance apply in the absence of that person to the Magistrate to issue a court order for the person to pay the fixed penalty together with an additional penalty equal to the amount of the fixed penalty and cost. Once the court order is issued and signed, the relevant DOPs will be recorded under the DOP System. The Administration has advised that upstream circumvention is unlikely a concern for traffic offences dealt with by fixed penalty tickets.

As for traffic cases where charges are to be laid cover more serious traffic offences, should the defendant, who is usually on bail, fail to appear before the Court to answer the charge(s), the Magistrate may issue a warrant of arrest against the defendant. The Administration has assessed that upstream circumvention for such cases is unlikely a concern.

For DOP offences that are to be dealt with by way of summons, the Administration's assessment is that the risk of upstream circumvention is relatively low. The Administration has advised that when it is evident that a defendant has tried to evade receiving the summons, the police will apply to the Court for the issue of an arrest warrant under section 9 of the Magistrates Ordinance.

In the course of scrutiny, members have requested that the Administration should take effective measures to ensure that summonses will be issued to the updated address of the person concerned because, under the "deemed served"

provision, a summons issued to the defendant's old address by registered post will also be deemed to have been served even if it is returned undelivered.

The Administration has informed the Bills Committee that the Transport Department (TD) and the Judiciary have jointly reviewed the work procedures for the issue of DOP summonses under Cap. 375 and have agreed on a set of revised work procedures. To tie in with the new measures proposed in the Bill, the computer systems of the TD and the Judiciary have been enhanced to allow data transfer. Under the revised work procedures, two days before and on the day of hearing, the TD will check the address of the person concerned again. If there is any change of address and the person concerned is absent from the scheduled hearing, the TD will ask the Court to arrange reissue of the summons with the updated address, if any.

A member has suggested that the Administration should step up prosecution against persons in breach of the existing statutory requirement that a person holding a driving licence has to notify the Commissioner if there is any change to his particulars, including his address. In response, the Administration has undertaken that it will step up publicity on this notification requirement.

Neither the Administration nor any members have proposed any Committee stage amendments. The Bills Committee supports the Bill.

President, in the following part of my speech, I shall discuss the views of the Liberal Party on the Bill in my personal capacity.

President, as I mentioned in the above report, the Bill aims to plug the loophole relating to the existing statutory procedures of disqualifying drivers who have incurred 15 DOPs. The passage of the Bill will no doubt make it impossible for any drivers to avoid receiving the summonses served on them by the Court. This loophole will be plugged, but the problem will not be totally solved.

To begin with, we must once again look at why the Government has to introduce the Bill in the first place. The whole thing started when the mass media reported that as a result of a loophole in the DOP System, many drivers who had incurred 15 DOPs or more could continue to drive on the road as usual and without any worries. The reason, as reported, was that as long as such drivers could avoid receiving the summonses served on them, it would be

impossible to punish them under the law. Such media reports induced a huge public outcry. Although the Bill can tackle the problem of unsuccessful service of summons, it nonetheless cannot solve the problem that drivers who have incurred 15 DOPs or more can still drive on the road.

Under the existing legislation, where a summons has been served on a person, a Magistrate may order the person to be disqualified from holding or obtaining a driving licence in the person's absence. However, under the Bill to be passed today, where a summons is deemed to have been served on a person, a Magistrate is only empowered to issue a warrant of arrest in the absence of that person, rather than ordering the person to be disqualified from driving. The relevant provision can plug a loophole, but it will open another. In the end, it will still be impossible to prevent drivers who have incurred 15 DOPs from driving on the road as usual. Generally speaking, there must be some problems with the driving skills and attitudes of a driver who has incurred 15 DOPs or more. If not, the law will not require the mandatory suspension of his driving licence. Allowing such drivers to continue to drive on the road will pose potential dangers to other motorists and pedestrians. But the Administration has failed to tackle this problem.

My worry about this issue is shared by The Ombudsman, who has launched a study on the enforcement procedures of the DOP System. Statistics of the TD show that in respect of traffic accidents involving casualties, the incidence rate is far higher in the case of drivers with 15 DOPs or more who can continue to drive on the road due to unsuccessful service of summons than in the case of all other categories of drivers. This is a problem that the Government must squarely address. Under the proposed mechanism, a person can be disqualified from driving only if he appears in Court. But if a person avoids attending court hearings and arrest by the police, he can continue to drive on the road and endanger other road users' safety until his driving licence expires. But I must point out that the validity of a driving licence is now as long as 10 years, so the situation is absolutely undesirable.

The Administration has explained that the proposal of the Bill aims to ensure that a person would not be disqualified from driving without being given a chance of defending himself in Court. But I must remind the Government that equal importance should be attached to other road users' right to be free of danger.

The Liberal Party understands that it is not at all easy to tackle the problem, for many facets and legal points of view must be considered. It is impossible to achieve the goal simply by making any further amendments to the Bill. But the Liberal Party still hopes that the Administration can seriously consider the advice of The Ombudsman and actively explore the introduction of additional measures that can plug the loopholes of the DOP System as early as possible. That way, the system can really serve the function of upgrading road traffic safety.

Although the Bill is not yet perfect, it can nonetheless tackle the problem of unsuccessful service of summons. The Liberal Party hopes that the amendments this time around can at least reduce the number of drivers who seek to circumvent the DOP System. For this reason, the Liberal Party will support the Bill. However, we hope that the Administration can take active measures to ensure that once a Magistrate has issued a warrant of arrest, the driver concerned who failed to attend the court hearing can be expeditiously brought to justice. One possible measure is to put the names of wanted drivers on the "Watch List" of the Immigration Department. In this way, if they attempt to leave the territory through any boundary control points, they can be put under arrest. In addition, the Liberal Party also hopes that the Administration can seriously review the effectiveness of the legislation six months after its commencement, so as to make further improvements.

With these remarks, President, I support the Bill.

MR ANDREW CHENG (in Cantonese): President, the Democratic Party supports the amendments to the Driving-offence Points (DOP) System proposed by the Bill. All along, the Audit Commission and the Public Accounts Committee have been expressing their concern, and even the mass media have never ceased revealing the loopholes in the DOP System, such as those relating to drivers who have incurred 15 DOPs and even the non-payment of fixed penalties amounting to six digits. People thus think that there is really a need to expeditiously review the DOP System, with a view to plugging the loopholes.

We have always hoped that the Government can introduce amendments more expeditiously, especially in respect of the definition of "service of summons", one of the more important issues tackled in the Bill. We totally support the Government's move to tackle this issue. One problem with the existing legislation is that when summonses and disqualification orders are served

on some drivers by hand, they do not answer the door, or persons who answer the door claim that the persons named on the summonses are not living thereat. For such cases, since summonses have not been served on the drivers, the Magistrate cannot issue an arrest warrant under section 18A of Cap. 227, and in that connection, the police cannot arrest the drivers concerned.

Another inadequacy of the existing legislation is that the Commissioner for Transport (the Commissioner) has no authority to refuse to issue, reissue or renew the driving licence of a person even if he has failed to appear before a Magistrate in answer to the summons. According to statistics, as at the end of January 2009, the number of drivers who incurred 15 DOPs or more to whom summonses could not be served was about 650. It is hoped that the Government's present amendment in relation to "service of summons" can lead to corresponding improvement.

The Chairman of the Bills Committee has already explained this amendment. I do not intend to make any repetition here. Under the definition of "service of summons", a summons is deemed to have been served even if it is returned undelivered. This amendment is agreed and supported by all Members. There are understandably many grey areas. I therefore think that we need to monitor the latest situation closely three to six months after the commencement of the Amendment Ordinance.

President, new section 16(1A) provides that a Magistrate is not empowered to order a person to be disqualified from holding or obtaining a driving licence in the absence of that person. We understand that this is meant to protect the right to fair trial, which is stated in Article 10 of the Hong Kong Bill of Rights Ordinance, and to avoid insurance problems that may arise. However, in the Bills Committee, we repeatedly emphasized that the proposed amendment may render the Bill ineffective in tackling the problem that some drivers have intentionally circumvented the mechanism for the service of DOP summons. The reason is that even if the police can track down the driver concerned and bring him to Court, he can still continue to drive on the road. This will pose a very serious hazard to road safety.

The Administration needs to explain why consideration not given to empowering the Commissioner to suspend the driving licence of a driver who has accumulated 15 or more DOPs or in his absence. We note that The Ombudsman also raised the same concerns in announcing the decision to initiate a direct

investigation into the implementation of the DOP System on 19 March 2009. We therefore hope that the Secretary can give serious consideration to the possibility of adopting an administrative measure to suspend a person's driving licence, so as to reduce the hazards on our roads.

President, clause 6 of the Bill makes an amendment to provide that the Commissioner shall not issue, reissue or renew a driving licence to a person if the person fails to appear in Court to answer a summons served on him under Cap. 375, including a summons deemed to have been served. The Democratic Party also supports this amendment.

President, regarding the point that the defendant chased by the police can be added to the Immigration Department's "Watch List", the Administration has advised that this measure will be particularly effective in apprehending a defendant who cannot be located by other means. President, speaking of the "Watch List", I must make it a point to say that we in the Legislative Council have always been very cautious when handling any issues that may have human rights implications. But we are also mindful that we must strike a balance between the public interest on the one hand and road safety and dangerous driving on the other. In this connection, the importance of the public interest is self-evident. How can we bring such suspects to Court for a fair trial or even suspend their driving licences? We hold that if the police, or the Immigration Department for that matter, can balance the interests of all before putting any names on the "Watch List", we will certainly support the Government.

President, we also understand that in some cases, summonses cannot be served successfully because the Transport Department (TD) and the Judiciary are unable to update the data about drivers in a timely manner. We note that the computer systems of the TD and the Judiciary have been enhanced to allow data transfer. Under the revised work procedures, when the TD makes an application to the Court for issue of DOP summons to a person, his latest address shown in the record of driving licences kept by the TD will be passed to the Court for issue of the summons. President, this is very important because at present, the computer systems of the TD and the Judiciary do not allow transfer of the latest data, especially the updated addresses of drivers. The two computer systems do not allow data transfer. In that case, no matter how the law is amended, it will not be possible to send letters to the latest addresses. This is a loophole caused by the computer systems.

President, problems with the computer systems are hardware issues. Since the dissemination of information is so free and advanced in Hong Kong, we cannot accept any situation under which after repeated amendments to the legislation, we are still unable to update our computer systems to meet the new requirements. It is therefore hoped that the Government can step up its improvement efforts in this regard.

President, two days before and on the day of hearing, the TD will check the address of the person concerned again. This is naturally an improvement because even if the latest address is used, the person may still move to a place during these two days. It is therefore absolutely necessary to conduct checking again. If there is any change of address and the person concerned is absent from the scheduled hearing, the TD will request the Court to arrange reissue of the summons with the updated address. The summons will then be served to the person concerned by registered post again. The revised work procedures are aimed mainly at ensuring that summonses will be issued to the updated address of the person concerned. With all these measures, including the updating of the computer systems of the TD and the Judiciary to allow data transfer and the checking of addresses two days before hearing, the present loophole can be plugged.

President, under regulation 18 of the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B), driving licence holders are required to notify the Commissioner of any changes in personal particulars (including addresses) within 72 hours after the occurrence of such changes. We hope that the Government can strengthen the enforcement of this regulation and step up publicity. I believe that those of us who drive, including the President, must have received a letter from the TD recently, informing us that in case there is any change of address, we must notify the TD within 72 hours.

I hope that with the amendments today, the updating of hardware and computer systems and the improvement of work procedures, it will be possible to minimize the problems with the DOP System or the impacts on road safety resulting from circumvention of the system.

With these remarks, President, I support the Bill.

MR CHEUNG HOK-MING (in Cantonese): President, in the wake of the recent spate of fatal traffic accidents, society as a whole has turned increasingly vocal on the need for clamping down on law-breaking drivers. Natural calamities cannot be averted, but it is always possible to avoid man-made disasters. If everybody can abide by traffic rules, the number of traffic accidents can certainly be reduced very greatly. In order to foster a responsible driving attitude among drivers, we must start with education and make sustained efforts to increase their awareness of road safety. But in regard to drivers who seek to evade their responsibility, we can only seek to deter and regulate them by improving the relevant legislation.

Targeting on the handful of drivers who seek to avoid receiving court summonses and circumvent the DOP System after contravening the Road Traffic Ordinance, the Administration has put forward the Road Traffic (Driving-offence Points) (Amendment) Bill 2009. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) and I both support such a move. But at the same time, we are concerned about whether the authorities can do a good job in two respects after the commencement of the legislation. First, how can we make sure that the registered correspondence addresses of drivers are correct? Second, how can we ensure that motorists will notify the TD of any changes of addresses in a timely manner, so that the authorities concerned can update the relevant record and notify the Court accordingly?

One reason for the Bill's proposal on amending Cap. 375 and the Road Traffic (Driving Licences) Regulations (Cap. 374 sub. leg. B) (the Regulations) is that the Administration has noticed that in some cases, court summonses cannot be served on the drivers concerned at their registered addresses with the TD, and the Court and the police are thus unable to take any follow-up actions. According to the information supplied by the Administration, as at January 2009, the number of drivers who incurred 15 DOPs or more on whom summonses could not be served was about 650. We can easily imagine that other drivers, passengers and pedestrians will be seriously impacted if all these drivers with attitude problems can evade penalties and continue to drive on the road without any worries due to the loophole mentioned above. The Administration must therefore improve the relevant legislation, taking into account the needs for ensuring public safety, assuring drivers' right to defence and holding them responsible for their own acts.

President, at present, the TD requires all people who apply for vehicle registration, driving licences and renewal of driving licences to produce proof of addresses. And, in case there are any changes to the names of drivers, addresses and identity documents registered with the Commissioner for Transport (the Commissioner), the persons concerned must notify the Commissioner accordingly within 72 hours, either in writing or by filling in the relevant forms. However, the 650 cases of "unserved" summonses mentioned above can tell us that there is still room for improving such requirements. It cannot be ruled out that some of these several hundred drivers have indeed sought to avoid receiving the summonses, and that the addresses they provided are not true. But in some cases, the drivers concerned might have failed to notify the TD of their changes of addresses due to a lack of awareness or simple forgetfulness. For this reason, the Administration should take appropriate measures to bring home to motorists the importance of providing true and correct addresses and the legal liabilities resulting from providing wrong addresses or failure to update addresses in a timely manner.

Besides, after the commencement of the Regulations, and under the "deemed served" provision, a summons served by registered post is deemed to have been served even if it is returned undelivered. If the TD cannot relay accurate and updated information to the Court and the persons concerned thus lose the opportunity of defending themselves or admitting their guilt, these persons will face a lot of trouble. And, this will also defeat the original intent of the Amendment Bill. Therefore, I hope that the Administration can be very meticulous when revising the work procedures, so as to avoid any problems with the updating of addresses and ensure that the Court can be given the latest information.

President, the DAB supports the Bill and hopes that the Administration can step up its efforts of educating drivers on the importance of a correct driving attitude and road safety awareness, so as to protect other road users and really reduce the number of traffic accidents.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, I speak in support of the Road Traffic (Driving-offence Points) (Amendment) Bill 2009 (the Bill).

President, the amendment exercised by the Government this time around seeks to prevent those drivers who have accumulated the maximum

Driving-offence Points (DOP) from deliberately avoiding receiving summonses issued by the Court. The amendment is also made in response to the investigation initiated by the Office of The Ombudsman, and the disclosure and criticisms by the mass media.

Under the existing Ordinance, those drivers who have incurred the maximum DOPs may still drive blatantly, and even without a driving licence, on the road. This is obviously a huge loophole. Why can there be such a ridiculous loophole? At present, when a driver has incurred 15 DOPs, he will have to appear before the Court, but he can circumvent the system on the excuse of failing to receive the summons, be it true or not. The Magistrate cannot issue an arrest warrant for this reason, while the police cannot arrest the driver concerned. What is more outrageous is that the TD will still issue licences to these unlawful drivers.

In short, drivers who have incurred the maximum DOPs may escape the long arm of the law by simply avoiding receiving summonses. They can continue racing their cars on the streets like a mobile bomb. It is not only unfair to other law-abiding road users, but will also pose terrible dangers and threats to them. According to the information provided by the authorities, some 650 mobile bombs are now moving freely in the streets. Hence, I support that the Government should plug the loophole as soon as possible.

The amendment provisions included in the Bill this time mainly seek to improve the system for serving summonses and to empower the Commissioner for Transport to refuse to renew and issue a driving licence to drivers failing to appear in Court. I support these amendments. However, at the same time, I am concerned about the matching and supportive arrangements to be put in place upon the commencement of the Amendment Bill, as well as the effort to step up prosecution. For instance, how can drivers be reminded to provide with the department their latest residential addresses, and whether the latest information on residential addresses can be followed up through the computer systems of the TD and the Judiciary to prevent mixing up cases or referring to old records. Besides, if the drivers concerned fail to appear in Court upon the issue of summonses, how will the authorities locate these illegal drivers who have already incurred maximum DOPs? In fact, the authorities will have to face these challenges in the actual enforcement of the Amendment Ordinance.

President, it was revealed recently in the newspapers that the TD, probably in response to the amendment of the present Bill or the investigation by the Office of The Ombudsman, has issued a letter to all driving licence holders and registered owners, requesting them to notify the TD of their change of address within three days, if applicable, and failing to do so will subject them to a fine. However, if the letter issued by the authority is sent to a driving licence holder or a registered owner who has not updated his address record in the TD, will the letter issued serve its purpose? No, the letter will not reach the addressee. If so, is the arrangement somehow illogical and stupid?

Hence, I hope the Government will step up its promotion effort. For instance, it can make use of the airwaves or the broadcast channel of the Government. It may also place advertisements in newspapers and at prominent locations of main roads or exits of tunnels to advise drivers to abide by the law. It may remind driving licence holders and registered owners to promptly report their new addresses via the Demand for rates and tax returns, and so on, sent by the Government. Will it be more effective to remind driving licence holders of such requirements by stepping up its promotion effort? I hope the Government will consider these suggestions seriously.

President, I am glad that the Administration has undertaken at the Bills Committee to review the enforcement of the Bill and the effectiveness of the Bill in preventing drivers from circumventing the DOP System six months after its implementation, and will report the result of the review to the Panel on Transport. I agree with the approach proposed by the authorities. At the same time, I hope that the authorities will introduce more effective measures upon the passage of the Bill to prevent drivers who have incurred maximum DOPs from continue posing hazards to other road users. Thank you, President.

MR RONNY TONG (in Cantonese): The Civic Party supports the spirit behind the Road Traffic (Driving-offence Points) (Amendment) Bill 2009 (the Bill). But I have heard that many colleagues are also concerned about the unintentional faults of drivers. For instance, in terms of procedure, if the correspondence address is not clear, the driver may be prosecuted as a result of the Bill. However, President, our primary concern is how legislation should be amended in

order to plug the loopholes that ill-intentioned drivers may seek to exploit. Facing such a problem, our biggest obstacle — I am not trying to depict this obstacle in a negative sense — is that, in the legal point of view, many legal experts (including the Courts) do not think that it is acceptable to hear a case in the absence of the defendant because it is in violation of the basic principle of human rights.

President, precisely because of this reason, the amendment proposed by the Administration is only a procedural amendment to statutorily empower the authorities to detect drivers who have or may have incurred 15 DOPs when they are stopped and checked at various entry and exit control points. However, President, the amendment may have brought into light two equally important issues. First, even if the amendment is enacted, an offending driver can still evade prosecution as long as he understands this legislation well and then tries either not to leave Hong Kong or being arrested red-handed by the police. It is still impossible to bring him to justice. Secondly, it creates a more worrying situation. Can you imagine if the drivers know that this amended legislation is applicable only when they happen to have or have been incurred 15 DOPs? Will this greatly reduce their incentive to plead guilty in writing? Will it encourage those who intend to evade the law circumvent any form of prosecution? This will directly affect the effectiveness of the law-enforcement agencies in performing their duties.

President, under such circumstances, we had discussed many different options with a view to plugging the serious loopholes aforementioned when the Bills Committee was scrutinizing the Bill. However, we have yet to reach any consensus. But I hope that the Administration can consider carefully two remedies when conducting a review six months later. The first remedy is that the Administration may consider empowering the Court to enhance the penalties for an offending driver if he has failed to appear in Court. In other words, as a deterrent, the offending driver will be subject to a much heavier penalty than he would otherwise deserve on violating the traffic legislation once the law-enforcement officers have arrested him. The second remedy is that we can consider going on with the trial against the offending driver if he keeps avoiding written prosecution or ignoring the Court summons. The principle of human rights is not totally inflexible. To our understanding, the International Covenant on Human Rights has provided that proper adjustments can be made through legislation in accordance with the special situation of each jurisdiction. Hence, a

trial in the absence of the defendant should be handled very carefully, but it is time for us to consider plugging the loophole if the offending drivers are taking advantage of the loophole over and over again.

President, apart from these two points, the Civic Party will support the amendment.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Transport and Housing to reply. This debate come to a close after the Secretary for Transport and Housing has given her reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, my heartfelt thanks must go to Ms Miriam LAU, Chairman of the Bills Committee on Road Traffic (Driving-offence Points) (Amendment) Bill 2009 (the Bills Committee) and all members of the Bills Committee for the efforts they have made and the precious advice they have offered.

The Government put in place the Driving-offence Points (DOP) System in 1984 to tackle the repeat traffic offenders by imposing an additional penalty. If a driver has accumulated 15 or more DOPs within a period of two years, he may be disqualified from driving. And, the Transport Department (TD) will apply to a Magistrate for the issue of a summons to the driver for appearance in Court, so that the legal procedures of disqualification can be conducted. Over all these years since the implementation of the DOP System, it has been possible to serve summonses successfully in the majority of cases. The drivers concerned will also appear in Court at the times specified, and Magistrates are able to make disqualification orders. However, a handful of drivers have sought to circumvent the DOP System by seeking to avoid receiving summonses. Since summonses cannot be served on them, the Court cannot issue any warrant of arrest under section 18A of the Magistrates Ordinance (Cap. 227) to enable the police to arrest such drivers.

To pinpoint this situation, the Bill proposes two major amendments to improve the service of summonses under the present DOP System.

First, the Bill provides that a summons is deemed to have been served if it is served on a person by registered post at the person's address shown in the record of driving licences kept by the Commissioner for Transport (the Commissioner), even if it is returned undelivered.

Second, the Bill further provides that the Commissioner shall refuse to issue, reissue or renew a driving licence to a person if the person fails to appear in Court to answer a summons served on the person.

I wish to point out that under the existing legislation, a driver is required to report any change of his personal address to the TD within 72 hours after the occurrence such a change. This can ensure that letters and summonses relating to traffic matters can successfully served on the driver. And, this requirement will also serve a very important purpose in cases of traffic accidents, where it is necessary to ascertain the identities of drivers and promptly inform their families and other relevant persons. The Bill will not affect the majority of drivers who report their addresses as required by the law and appear in Court at the times specified in summonses. But it can target drivers who intentionally avoid receiving summonses and fail to appear in Court. The reason is that after the passage of the Bill, "unserved" summonses will no longer hinder the Court from issuing warrants of arrest.

The TD has recently stepped up publicity on the new requirement relating to address changes through various channels, including the issuing of letters and the broadcasting of APIs on television. Sustained efforts are being made to encourage drivers to provide their latest addresses. The TD also requires proof of addresses, so as to ensure their validity. In addition, in order to tie in with the new measure proposed by the Bill, the TD and the Judiciary have upgraded their respective computer systems to facilitate the daily transfer of information and ensure that summonses are served at the addresses reported by drivers.

After the passage of the Bill, the new provisions will also be applicable to the 600 or so drivers who have already incurred 15 DOPs or more to whom summonses could not be served. Arrangements will be made to issue summonses to them by registered post. If they fail to appear in Court at the

specified times, the Court may issue warrants of arrest against them, so that the police can bring them to Court for initiating the legal procedures of disqualification. The success rate for the "non-appearance arrest warrants" executed by the police has been higher than 80%. We therefore believe that the passage of the Bill will help plug the loophole in the existing DOP System and address to a very great extent the concern expressed by Ms Miriam LAU just now.

We also propose to add a new provision, whereby the Court shall not make a disqualification order against a driver in his absence. During the scrutiny of the Bill, the Bills Committee conducted some in-depth discussions on this proposal. And, this proposal was again discussed by several Members just now. We have explained in detail that under the "deemed served" provision, the possibility of a driver having a reasonable excuse for not having received a summons, and hence not attending the hearing, cannot be dismissed in its entirety. If a driver is disqualified from driving in this way, all other driving licences held by him (such as those for private cars, lorries and taxis) will be affected. This is a penalty that will deprive a person of his driving qualifications. In the case of professional drivers, the penalty will jeopardize their pecuniary interest or even affect their livelihood. It is therefore necessary to assure drivers' right to a fair and open hearing. We have explained to the Bills Committee that suspending the driving licence of a driver who has accumulated 15 or more DOPs or in his absence may give rise to a number of practical concerns. For example, the Court will be unable to revoke the driving licence of the driver concerned. Besides, ignorant of the fact that he was disqualified from driving, he might continue to drive and commit the offence of driving whilst disqualified. What is more, if the driver has a reasonable excuse for not having received the summons, and he is disqualified from driving without his knowledge, there will be human rights implications and problems with insurance liabilities in case of traffic accidents. As a matter of fact, no disqualification order has ever been imposed by the Court in the absence of drivers.

We note that in March this year, The Ombudsman announced its decision to initiate an investigation into the implementation of the DOP System. We also note that The Ombudsman's initial proposal of imposing automatic disqualification on a driver who has incurred 15 DOPs. I have already explained all the problems that may arise from automatic disqualification, such as those relating to the right to a fair and open hearing and other practical concerns. We will support The Ombudsman's work and explore with him the feasibility of his

proposals. Six months after the commencement of the Bill, we will also review its effectiveness in tackling the circumvention problem and decide, on the basis of the views received, whether it is necessary to adopt any additional measures.

President, I am very glad that the Bills Committee is generally in support of the Bill. I implore Members to support its passage, so that the relevant measures can be implemented to further improve road safety.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Road Traffic (Driving-offence Points) (Amendment) Bill 2009 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Road Traffic (Driving-offence Points) (Amendment) Bill 2009.

Council went into Committee.

Committee Stage

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

**ROAD TRAFFIC (DRIVING-OFFENCE POINTS) (AMENDMENT) BILL
2009**

CHAIRMAN (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Road Traffic (Driving-offence Points) (Amendment) Bill 2009.

CLERK (in Cantonese): Clauses 1 to 6.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: Clauses 1 to 6 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bills

PRESIDENT (in Cantonese): Bill: Third Reading.

ROAD TRAFFIC (DRIVING-OFFENCE POINTS) (AMENDMENT) BILL 2009

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, the

Road Traffic (Driving-Offence Points) (Amendment) Bill 2009

has passed through Committee stage without amendment. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Road Traffic (Driving-Offence Points) (Amendment) Bill 2009 be read the Third time and do pass.

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Road Traffic (Driving-Offence Points) (Amendment) Bill 2009.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Education Ordinance.

I now call upon the Secretary for Education to speak and move his motion.

PROPOSED RESOLUTION UNDER THE EDUCATION ORDINANCE

SECRETARY FOR EDUCATION (in Cantonese): President, I hereby commend to Honourable Members the proposed resolution to amend Section 40BK(3)(a) of the Education Ordinance by repealing "1 July 2009" and substituting "1 July 2011".

The Education Ordinance stipulates that the sponsoring body of an aided school shall submit to the Permanent Secretary a draft of the constitution of a proposed incorporated management committee (IMC) by 1 July 2009. This resolution is to extend the deadline by two years to 1 July 2011.

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

The provisions concerning the IMC have come into effect for almost four and a half years. At present, about 53% of the aided schools have either set up their IMCs, submitted or undertaken to submit draft IMC constitutions. Although in an earlier survey, most of the school sponsoring bodies indicated that they would submit draft IMC constitutions before the deadline in accordance with the statutory requirement, it is now less than one and a half months from the deadline, yet more than 40% of the schools have not submitted their draft IMC constitution.

Besides, a consultancy study on the review of the implementation and operation of IMCs shows that major school sponsoring bodies need to take longer time to prepare for the setting up of IMCs and recommends that consideration be given to extend the deadline for submission of draft IMC constitutions to allow more time for these school sponsoring bodies to make preparation.

In view of the above, we have decided to extend the deadline by two years by way of a resolution of the Legislative Council in accordance with the power conferred by the Ordinance. On 30 March 2009, we consulted the Panel on Education on the proposal to extend the deadline by two years and the Panel had no objection to it. We have also consulted school sponsoring bodies, Schools Councils, the Federation of Incorporated Management Committees of Hong Kong Schools and District Federations of Parent-Teacher Associations. They have expressed understanding and support for the proposal to extend the deadline by two years.

We understand the difficulties encountered by individual school sponsoring bodies in setting up IMCs for their schools. Under the framework of school-based management and the premise of not contravening the existing legislation, we are willing to adopt an open, liberal and prudent approach to the matter. We are also willing to show our goodwill and continue our discussion with school sponsoring bodies in order to reach a consensus. We will, where appropriate and practicable, allow schools more flexibility in order to facilitate the implementation of school-based management. Nevertheless, as the Education Ordinance does not allow indefinite extension of the timetable for schools to set up their IMCs, we must enforce the legislative requirements.

Subject to the passage of the resolution, the Education Bureau will continue the disbursement of the relevant subsidies and provision of support measures to help schools to submit their draft IMC constitutions and set up their IMCs before the deadline.

Deputy President, I commend to Honourable Members the Government's proposed resolution to extend the deadline for submission of draft IMC constitutions by two years. Thank you.

The Secretary for Education moved the following motion:

"RESOLVED that section 40BK(3)(a) of the Education Ordinance (Cap. 279) be amended by repealing "1 July 2009" and substituting "1 July 2011"."

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

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, the Democratic Party subscribes to the spirit of school-based management and considers that school management should have transparency and accountability to provide participatory decision-making by school sponsoring bodies, principals, teachers, parents and alumni representatives, which can, in turn, enable them to assist the school in developing pluralistic and characteristic teaching methods to cope with the education needs and achieve the goal of enhancing the effectiveness of teaching. However, since the Education (Amendment) Ordinance 2004 came into effect on 1 January 2005, about 380 aided schools in Hong Kong have set up IMCs and some 60 schools have pledged to do so before 1 July this year. These schools account for a little more than 50% of all schools in Hong Kong. The remaining 400-odd aided schools have yet drawn up any implementation timetable. Of these schools, about 64% are Catholic, Sheng Kung Hui and Methodist Church schools. The situation is just similar to that envisaged by the Legislative Council in 2004, that is, the Government might have conflicts with those larger school sponsoring bodies.

According to the Education (Amendment) Ordinance 2004, all aided schools are required to submit draft constitutions by 1 July 2009 for the purpose of setting up IMCs. As the deadline is approaching, the Education Bureau has eventually moved a motion to extend the deadline for submission of draft constitutions by two years to 1 July 2011. The Democratic Party supports the Government to extend the deadline for setting up IMCs in compliance with the law, so as to ease the tension in the education sector. This can relieve imminent conflicts for the time being and allow more time for those schools which have yet set up IMCs to make preparation. Although this is only a stopgap measure, it is desirable after all. In fact, apart from those larger school sponsoring bodies which have stated clearly their objection to the setting up of IMCs, some smaller school sponsoring bodies, which are operating some 150 aided schools, have adopted a wait-and-see attitude on this issue. It is truly necessary for the Government to extend the deadline for two years, so as to ease the conflicts and come up with a reconciliation proactively.

The Democratic Party suggests that the Government should make good use of these two years to appoint a neutral academic institution to examine the

effectiveness of various approaches of school-based governance, and conduct a thorough comparison and analysis of the existing approaches of school management. If it can be proved that there exist other approaches which are also in line with the spirit of school-based management to provide participatory decision-making by stakeholders and achieve the ultimate goal of meeting the education needs, why can the Government not adopt an open manner to amend the legislation and accept a multi-modelled and democratic school management, rather than formulating a rigid and unitary "IMC" approach in accordance with the existing ordinance? The Government should base on the research findings and the actual needs to amend the legislation, so as to allow all schools in Hong Kong to implement different modes of school-based management and achieve a multi-faceted, harmonious and multi-win system of democratic school management.

There have all along been controversies over the Education (Amendment) Ordinance 2004. Some school sponsoring bodies have different opinions and adopt a wait-and-see attitude or even a strong objection to IMCs. The relationship between some Catholic school sponsoring bodies and the Education Bureau has turned bad as a result and the former have initiated a lawsuit against the latter. This will not only affect the stability of their operation, but also put their schools in a dilemma. Some religious and larger school sponsoring bodies have all along been maintaining a partnership relationship with the Government, but have a rupture with the Education Bureau because of the Education (Amendment) Ordinance 2004. This relationship needs amends. Mr Timothy HA of Sheng Kung Hui even stated that "the golden era of education has gone." He is totally disillusioned to see that the Government has deliberately watered down the role of school sponsoring bodies, and the partnership relationship established over the past hundred years has been completely ruined by the ordinance on school-based management.

As a matter of fact, those school sponsoring bodies which object to the Education (Amendment) Ordinance 2004 do not oppose the spirit of school-based management. On the contrary, they recognize the need for schools to enhance their accountability and transparency, but just query why the setting up of IMCs stipulated in the law is the only way to achieve school-based management. They are also dissatisfied with the Government's handling of this issue as it only brags about the achievement made by some schools over the past three years, but ignores those experienced school sponsoring bodies which have operated schools

for over a hundred years. They hold that the Bureau should allow flexibility and diversity in school-based management.

Mr Michael SUEN, Secretary for Education, has criticized earlier on that the application for judicial review by the Catholic Diocese of Hong Kong is a kind of stalling tactic, with a view to creating uncertainties for the Education (Amendment) Ordinance 2004, which is unfair. In fact, school sponsoring bodies have made it clear that they have no intention to employ any stalling tactic. On the contrary, they hope to have in-depth communication with the Education Bureau, so that both sides can solve their problems respectively. Apart from this, their schools also have conducted trials of different modes of school-based management recently. Take the Methodist Church schools as an example. Over the past 10-odd years, they have been promoting school-based management proactively. So far, each of their schools has established a School Management Committee (SMC), with teachers, parents and alumni representatives being elected to join the SMC and participate in decision-making and school management collaboratively. Since the 2007 academic year, parents, teachers, alumni and individual members account for 40% of SMC members in each school, which is on par with the stipulation in the Education (Amendment) Ordinance 2004.

The Democratic Party suggests that the Government should make use of the next two years to approach school sponsoring bodies with different opinions proactively. They should have mutual communication and sincere deliberations, so as to come up with a satisfactory solution to eliminate all possible conflicts and unrests which may emerge within two years. If necessary, the deadline can be further extended after the two-year extension. After the ordinance has come into operation, a longer period of implementation can even be included, so as to allow more room for the Education Bureau and school sponsoring bodies to negotiate a compromise. Problems can be solved by thorough deliberations. If the Government brings more tolerance and flexibility into the Education (Amendment) Ordinance 2004, it can settle the disputes with school sponsoring bodies, mend their relationship, restore mutual confidence and create a harmonious and stable teaching environment for schools and school sponsoring bodies.

Deputy President, when the Education (Amendment) Ordinance 2004 was passed in 2004, I had voiced teachers' concerns during the Second Reading. I was particularly concerned that the Government, under the pretext of

school-based management, was in effect to implement the policy on lump-sum grant for teachers' remuneration progressively. My worries were well founded. When the Bill was submitted to the Legislative Council for discussion at that time, the original section 40AE(2)(b) empowered IMCs to decide the salaries and terms of service for their teaching staff. It was an important amendment which enabled IMCs to dovetail with the lump-sum grant and change the remuneration structure of teachers. In view of the strong request made by the Democratic Party at that time, the Government amended the provision to stipulate that IMCs should be governed by the Code of Aid, so as to maintain the stability of teachers' remuneration. At that time, I also warned the Government not to make use of the flexibility of school-based management to let IMCs ruin the mechanism of teachers' remuneration.

As evidenced by the development of IMCs over the past 3-odd years, although the lump-sum grant arrangement for teachers' remuneration has yet been implemented, there are numerous kinds of contract teachers in schools whose remuneration is relatively low. Their occupational rights are not covered by the Code of Aid, which has become the source of confusion and conflicts in schools and has started dealing a blow to the mechanism of teachers' remuneration. Individual schools even abuse the IMC power. They do not comply with the dismissal procedures stipulated in the Code of Aid, refuse to accept redundant teachers from the same school sponsoring body and do not employ teachers according to the specified establishment. On the other hand, the Education Bureau adopts loose governance under the pretext of school-based management and allows incompliance with the Code of Aid unwittingly. This is one of the reasons for the Democratic Party objecting to the Education (Amendment) Ordinance 2004 at that time. The Democratic Party considers that the Education Bureau should give a warning to those schools which trample on and ignore the Code of Aid under the pretext of IMC. Otherwise, the Democratic Party will still object to the full implementation of the Education (Amendment) Ordinance 2004.

Moreover, according to the findings provided by the consultancy appointed by the Government, most principals and teachers in IMC schools are worried that additional paper work and administrative workload will be brought about. Some IMC schools even use the Teacher Relief Grant to replace the original reimbursement of expenses of hiring supply teachers on an accountable basis, so as to cope with sick leave and training leave taken by teachers. However, the Education Bureau uses 2.5 man-days per teacher as the basis for calculating the amount of leave grant to be provided, and the amount of grant is often

insufficient. Some schools have to meet the shortfall themselves, which exerts pressure on both schools and teachers. Some teachers who have fallen ill even refrain from taking sick leave. This is the loophole which the Education Bureau must address and plug.

Deputy President, the Democratic Party reiterates that we support the Government to extend the deadline for setting up IMCs by two years in compliance with the law, so as to allow time to come up with a satisfactory solution. If necessary, the two-year extension can be further extended. After the ordinance has come into operation, a longer period of implementation can even be included, so as to allow more room for the Education Bureau and school sponsoring bodies to negotiate for a compromise through discussions. Sometimes, time is a sound strategy to solve problems, and time can also provide room for negotiation, so as to achieve the ultimate goal of democratic school management, which provides for participatory decision-making by teachers, parents and alumni and allows them to enhance the level of administration and quality of management collaboratively. Thank you.

MR TOMMY CHEUNG (in Cantonese): Deputy President, the Secretary for Education has moved a motion today to amend section 40BK(3)(a) of the Education Ordinance (Cap. 279) to the effect that the deadline requiring aided schools to submit draft constitutions for the purpose of setting up IMCs to manage their schools will be extended by two years from 1 July this year to 1 July 2011.

We have all along agreed to allow sufficient time for school sponsoring bodies, schools, teachers and parents to adapt to changes brought about by the legislation. As such, the Liberal Party will basically not object to this amendment.

So much for that. When this Ordinance was amended in 2004, there was already a transition period of five years, which was very long indeed. At the outset, the Government stated clearly that the transition period could be extended by two years if necessary. However, as the Ordinance has been in operation for five years, if there is really a need to apply for an extension by two years, this may reflect a possible failure on the part of the authorities, on the pretext that school sponsoring bodies are not well-prepared so as to evade their

responsibilities. Frankly speaking, if the situation goes on like this, parents of some schools will truly have the "Seven Year Itch" as they have been kept waiting for such a long time.

The spirit of this Ordinance is to advocate the principle of school-based management and encourage stakeholders like parents, teachers and alumni to participate in decision-making, so as to enhance transparency and accountability of school management. At the same time, the existing school sponsoring bodies will not lose autonomy over their schools.

As a matter of fact, more than 50% of the aided schools have set up IMCs or pledged to do so over the past five years. As for those schools which are not yet prepared, the majority (64%) are the denominational school sponsoring bodies which stated their objection in the early stage. Mr CHEUNG Man-kwong has also mentioned a number of such bodies just now.

According to the report completed by the Government in early March this year, for those schools which have set up IMCs, their transition, establishment and implementation of IMCs have been on the whole smooth. The establishment of IMCs has neither affected the relationship between schools and their school sponsoring bodies, nor deviated from the original vision and mission set by school sponsoring bodies.

As we all know, the Government is now engaged in a judicial review on this Ordinance with the Catholic Diocese of Hong Kong. However, in my opinion, as neither the Ordinance nor those schools which have set up IMCs have any problem, I hope the Government will not just keep us waiting because of the extension of the transition period by two more years. On the contrary, the Government should implement the Ordinance expeditiously, so that all parents, teachers and alumni can take part in school management.

Deputy President, I am very astonished after listening to the speech made by Mr CHEUNG Man-kwong just now. He advised that the authorities could further extend the deadline by two years after two years, and the implementation period could be further extended as well. If this is the case, it will be very different from the usual practice of the Democratic Party. In previous discussions on other ordinances, they tended to object to any deferral of implementation even it was just a month. During my time as a Member in the past nine years — though it is not a very long period of time — has the Deputy

President, who has been a Member for a long time as well, ever seen the implementation period of any enacted and amended ordinance as long as five years? Adding to this adaptation period of two years, it is already seven years. In case there is an extension by another two years, it will be as long as nine years, right? The Democratic Party even suggested that if two years were not enough, it could be further extended. Even if the adaptation period has been extended by two years, it can still be further extended. If this is the case, we had better not to implement it. I think the Secretary had better simply withdraw the Ordinance.

I am very astonished after listening to his speech. As far as I can remember, when I joined the Panel on Education of the Legislative Council eight or nine years ago, Dr YEUNG Sum and Mr CHEUNG Man-kwong already took the initiative to query the then Secretary for Education and Manpower why he had not yet implemented an ordinance on school-based management. However, during the scrutiny, they changed their stances all of a sudden. And now, he not only agrees that it can be extended by two years, but also suggests that it can be extended even further. With repeated extensions, everything will be watered down as time goes by. If this is the case, as for many laws, I do not understand why they have to be made, either.

Deputy President, I so submit.

MS STARRY LEE (in Cantonese): Deputy President, the Education (Amendment) Bill 2002 passed by the Legislative Council in July 2004 is mainly meant to provide a legal framework for the establishment of IMCs by schools. School sponsoring bodies are required to submit their IMC constitutions on 1 July this year at the latest. Although the Bill has been passed for many years, only half of the schools have set up IMCs and submitted or undertaken to submit their draft IMC constitutions. This means that over 40% of the schools in Hong Kong have not yet submitted an application for establishing an IMC to the Education Bureau. For this reason, the Government has proposed the resolution, which seeks to defer the deadline for submitting draft IMC constitutions for two years. The DAB maintains that this is a necessary arrangement since it can give school sponsoring bodies more time to prepare the establishment of IMCs.

In the past four years of transition, half of the schools established IMCs and acted as the "vanguard". After taking stock of the experience in the past few years, these schools think that IMCs with principals, teachers and parents as members can operate smoothly on the whole. They can benefit from coverage by the Expanded Operating Expenses Block Grant (EOEBG), which gives them greater financial autonomy and enables them to deploy resources more flexibly. Precisely because these schools have set an example for non-IMC schools, showing how IMCs actually operate, there is all the more reason for the Government to take note and perfect the whole system.

Earlier on, The Federation of Incorporated Management Committees of Hong Kong Schools forwarded a written submission to us, urging us to pay attention to the issues relating to supply teacher grant. IMC schools are quoted by the submission as reflecting that with regard to supply teacher grant, their situation is even worse than that in non-IMC schools.

In general, schools can employ supply teachers to stand in for the teachers on sick leave, and they may claim reimbursement from the Education Bureau on an accountable basis for the expenses of hiring supply teachers. However, the Bureau has put in place a new arrangement for IMC schools, that is, the Teacher Relief Grant (TRG), which replaces the reimbursement of the expenses of hiring supply teachers on an accountable basis.

Besides appointing supply teachers, IMC schools can use the TRG to appoint social workers, educational psychologists and professional tutors of career-oriented studies, and to procure education-related services. The Government uses 2.5 man-days a year per teacher as the basis for calculating the amount of grant to be made. For fear of using up the grant and in a bid to make reservation for other purposes, some IMC schools simply require their teachers not to take more than 2.5 days of sick leave per year. If there is really such a request and a teacher needs to take more than 2.5 days of sick leave, then the sick leave quotas of other teachers will be reduced in a way. In fact, according to the Code of Aid, a teacher is entitled to 28 days of paid sick leave a year. Hence, any schools that make such a request are in effect depriving teachers of their legitimate rights.

Members all know that human swine influenza is spreading rapidly all over the world. I hope the Government can deal with this problem seriously and issue guidelines to schools, telling them that no employees (teachers included)

and no students should go to school if they develop any influenza symptoms. If any teachers with influenza symptoms still go to school just because they do not want to take more than 2.5 days of sick leave, they may transmit the flu virus to students or speed up the spreading of the disease in their schools. If the spreading of human swine influenza is thus speeded up, it will be very unfortunate to society.

What I have said is no alarmist talk. I hope the Government can seriously deal with the issues relating to supply teacher grant. More importantly, it must perfect the grant system and allay the anxieties of school sponsoring bodies, so as to encourage them to establish IMCs before the deadline set down in the relevant legislation. That way, school-based management can be fully implemented in schools.

With these remarks, I support the resolution.

MS CYD HO (in Cantonese): Deputy President, this Ordinance was passed in 2004 under the strong impetus given by the uncompromising Secretary, Prof Arthur LI, and Permanent Secretary, Mrs Fanny LAW. We had had 110 hours of deliberations at that time and the Secretary and Permanent Secretary told the media that the Bills Committee of the Legislative Council was a stumbling block, that is, we were splitting hairs. I was Chairman of the Bills Committee back then and I could not help sighing that we have to discuss here an extension of the deadline five years afterwards.

In fact, the Ordinance is still far from satisfactory. We had 110 hours of meeting at the time and the Government proposed 52 amendments. Generally speaking, the Government would not easily accept the 52 amendments, but probably because of the time pressure, the Government proposed the amendments anyhow. Several major amendments proposed by us were not passed as always. One of the amendments was about the point that the Ordinance was enacted to protect some schools that would voluntarily set up IMCs instead of making it compulsory for the school-based management mode to be adopted by all schools. However, it was a great pity that the amendment was not passed. Why were the school sponsoring bodies angry? Because it was unfair, for example, government schools were exempted and parent participation is still not required at present. Since the management of government schools was not subject to

monitoring, the legislation was tantamount to an unequal treaty. The school sponsoring bodies were reasonably angry and worried. Now that the five-year transitional period has come to an end, 40% of the schools have still not set up IMCs while churches still prefer to resort to legal proceedings, in the hope that there would not be a compulsory requirement for them to comply with the Ordinance when they win the cases.

I hope that, besides postponing the compulsory effective date, the Administration would very clearly and carefully discuss with the school sponsoring bodies or would even consider proposing further amendments to this Ordinance so that some existing problems could be resolved through amendments to the Ordinance.

An Honourable Member has just pointed out that setting up IMCs will transfer the management rights from the school sponsoring bodies to IMCs with parent participation. Nevertheless, after the transfer of the rights, there is no satisfactory mechanism for monitoring the rights of the IMCs. As a matter of fact, we initially requested parent participation because we thought that this might monitor the expenditures and operation of schools or give schools assistance, but we have now got some examples to illustrate that this does not work in some aspects.

One example is textbook prices. A Legislative Council panel convened a meeting and invited textbook sellers to present their problems, while the associations of heads of aided primary and secondary schools were also invited to brief us on their practices. I found after the meeting that the textbook prices mainly comprised the costs for sales promotion. The costs for sales promotion include gifts to schools such as drinking water machines and air-conditioners; even the gifts for lucky draws at the annual dinners of schools are supplied by textbook sellers. A Member said that sending flower baskets would be enough. I have done some calculations right away; if a flower basket costs \$500, \$750,000 will be spent on 1 500 schools a year. Calculating on the basis of 12 textbook sellers, the annual costs amount to \$9 million. The annual turnover of a textbook seller is \$120 million, and flower baskets alone account for 7% to 8% of it, not to mention other entertainment expenses. Even though there is parent participation in these IMCs, these established undesirable practices may not be changed.

Uniform is another example. Mr Tommy CHEUNG and some Honourable colleagues from the Liberal Party belong to the textile industry. Have they considered why the uniforms sold by a uniform supplier which does not need to pay shop rents, nor does it have air-conditioning, salespersons and shop supervisors are not cheaper than those of other retailers? Why do retailers sometimes offer 30% discounts while upstairs suppliers never give discounts?

Another example is catering services. Similarly, there are no shop rents and cleaners are not needed in every shop but the prices stay high. A teacher has told me that the catering service provider gives 30 to 40 free lunch boxes to teachers each day, yet, no one dares testify against it. I will continue to follow up this matter at the meetings of the Panel on Education, but I hope that the Administration will perfect the Ordinance so that the IMCs with teacher participation will not become centres of power that are corrupt or prone to abuse power. If the Ordinance is merely enacted to compel school sponsoring bodies to hand over the management rights, and replace them with another centre of power which is subsequently allowed to take arbitrary actions, this certainly defeats the initial democratic intent of participating in school administration. Just as an Honourable colleague has said, the making of grants for supply teachers has also violated the original intent of the Code of Aid.

Hence, Deputy President, I support this amendment reluctantly and unwillingly. I think there should be other more effective alternatives for solving the problem, thus, I wish that the Administration would seriously consider amending this Ordinance further. Thank you, Deputy President.

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

DR MARGARET NG (in Cantonese): Deputy President, I was not a member of the Bills Committee which scrutinized the Bill on school-based management back then, and I have all always regretted for not joining the Bills Committee because I found right away that it was an Ordinance for seizure of power when I read the report of the Bills Committee as a usual practice afterwards. A request is now made to postpone the implementation of the relevant provision, which is a seizure of power provision in an ordinance seeking to usurp power. For many years since Hong Kong was a colony, religious school sponsoring bodies have made enormous contribution to Hong Kong. However, at this stage, we are going to

smash their autonomy, which is the genuine objective of the ordinance on school-based management. As the legislation would be enacted very soon at that time, I could only state my viewpoints. Certainly, we could not backtrack on a lot of discussions between the Government and Honourable Members or organizations.

At that time, the Government said that the democrats were constantly asking for democracy and participation; if so, why are the democrats opposing today the democratic mode of operation of schools with parent participation which is recommended, implemented and advocated by the Government? The tricky part is that body corporates must be set up and compulsory implementation is required by law. We are not saying that all schools have mechanisms for parent participation or make policies fairly; instead, they should act in specified ways and the Government can intervene. If they do not act as specified by the law, the Government can intervene. That is the Government's way of handling the matter.

Deputy President, I received secondary school education at the St. Paul's Convent School. It was established in 1854 while the Sacred Heart Canossian College was established in Hong Kong a few years later in 1860. No wonder these school sponsoring bodies that had established schools in Hong Kong more than 100 years ago are so sad and angry about this Ordinance on school-based management. They would engage in legal proceedings even if the Ordinance is enacted. Deputy President, we are not seeking a reversal of verdict today; I can only say that the Secretary's approach is: the problem can be satisfactorily solved so long as the progress is slowed down. This is not an ulterior motive; I am not saying that the Secretary has an ulterior motive. In fact, there is no other alternative.

Second, from the judicial perspective, there is really a lawsuit now relating to a review of whether the legislation on school-based management is unconstitutional. We must postpone the implementation because many schools are not yet ready; what is wrong with postponing? Originally, I did not intend to add superfluous comments after Mr CHEUNG Man-kwong has made his remarks. However, as Mr Tommy CHEUNG is extremely puzzled and he does not understand why the democrats have to do so — certainly, I am not harbouring any vain hope that I would be placed on a par with the Democrats — they sometimes want the expeditious implementation of the Ordinance and they want non-implementation some other times. So, I find it necessary to explain the

reasons clearly, which is extremely logical for me to do so. Of course, I personally hope that the problem would be satisfactorily solved through the legal proceedings because I have not been supportive of Government adopting such a tyrannical attitude, and its brutal and unreasonable intervention in school administration. I think this has done extremely great harm to Hong Kong.

Deputy President, as I have said, I am not asking Honourable Members to open discussions on this issue anew. I just want to state clearly why those who opposed the enactment of the legislation at that time support the Government's resolution today to postpone the implementation date. We do not need to discuss anew the merits and faults today and we should only accept this approach which can be described as an expedient measure. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Education to reply. This debate will come to a close after the Secretary for Education has replied.

SECRETARY FOR EDUCATION (in Cantonese): Deputy President, I am very grateful to the five Honourable Members who have spoken and accounted for the history of this Bill and the difficulties that we are now facing very clearly, and for their understanding of and support for extending the deadline for implementation of the relevant provisions by two years. Certainly, Members have apparently and unanimously asked us to make good use of these two years to work out with the stakeholders mutually acceptable solutions by various means, including resolving the legal proceedings. We will strive to accomplish these tasks within these two years. Members have suggested various methods for resolving the issue, and we have already considered the suggestions just made by Members and communicated with the school sponsoring bodies and Members. Most importantly, we can only decide how the issue should be dealt with in the light of

the development of the legal proceedings. In any case, I can assure Members that I will make my best efforts to resolve all the issues that they have just raised. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Education be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

DEPUTY PRESIDENT (in Cantonese): Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Building (Minor Works) Regulation.

I now call upon the Secretary for Development to speak and move her motion.

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I move that the motion, as set out in the paper circularized to Members, be passed. This motion seeks to amend the Building (Minor Works) Regulation (the Regulation).

First of all, I would like to thank Dr Raymond HO, Chairman of the Subcommittee on Building (Minor Works) Regulation (the Subcommittee), and

other members of the Subcommittee, who have conducted a number of meetings to discuss the Regulation and given us much useful advice. The Subcommittee has also invited the relevant bodies from the industry as well as stakeholders to express their views. Having carefully considered the comments of the Subcommittee, the Administration proposes to amend the Regulation to further refine the relevant provisions.

The purpose of the Regulation is to stipulate the *modus operandi* of the minor works control system, the framework of which has been set out in the Buildings (Amendment) Ordinance 2008 passed by the Legislative Council in June 2008, to facilitate the public in carrying out small-scale building works through simplified statutory procedures.

All minor works will be classified by the Regulation into three classes according to their nature, scale, complexity as well as the risk to safety they pose. To carry out minor works under the simplified requirements stipulated in the Regulation, prior approval and consent of the Building Authority (BA) will be dispensed with. Members of the public can appoint technical personnel of different qualifications to carry out the works according to their complexity. The Buildings Department (BD) will establish a register of "registered minor works contractors" under the new system to enable existing practitioners with adequate qualifications or experience to register as minor works contractors. The qualifications and procedures for registration as contractors as well as their duties are stipulated in the Regulation.

Detailed specifications of 118 items of minor works which correspond to the specialization of works in the industry will be set out in the Regulation so that the practitioners can register as minor works contractors according to their qualifications and experience. The Regulation also stipulates the *modus operandi* of the implementation of the Household Minor Works Validation Scheme. Through this Scheme, members of the public may, after inspection and safety certification by registered professionals, retain for continued use some features which are of practical household needs but are unauthorized structures erected before the introduction of the minor works control system, including supporting frames for air conditioners, drying racks and small canopies.

Most provisions in the Regulation are modelled on the existing Buildings Ordinance (BO) and its relevant subsidiary regulations. We made such

arrangement because minor works and general building works only differ in terms of scale and complexity, but have very similar professional and technical requirements in other aspects. Nevertheless, the Subcommittee suggested that, for minor works practitioners who are smaller in scale, the Regulation should provide for additional measures to cope with the need of the industry. We accept the comments of the Subcommittee and propose the following amendments in relation to the registration of minor works contractors to further refine the arrangements under the Regulation.

First, we will clarify in section 12 of the Regulation the criteria which the BA will consider in referring an application to the Minor Works Contractor Registration Committee (Registration Committee), and stipulate a time limit of three months for the referral. The same amendment will also be made to other similar provisions in sections 15, 19, 23 and 25. These provisions cover applications for renewal, restoration, inclusion of additional class/type/item of minor works, and inclusion of additional "authorized signatory". We will also clarify in sections 15 and 19 that the time limit for the BA to consider applications for renewal and restoration of names in the register will be three months.

Second, we will amend section 7(1)(a) of the Regulation to stipulate the criteria which the BA will consider in appointing professionals as members of the Registration Committee.

Third, as regards appeal and review against refusal of registration, the Subcommittee raised concern over the fact that small-scale minor works practitioners might not be able to utilize the existing general channels as they had to bear the cost of lodging an appeal to the Court of First Instance (CFI). For this, we will amend section 26 of the Regulation and establish a simpler review mechanism. Upon request of a person whose application has been refused, the BD will refer the application to a separate and newly established Registration Committee which will take a second look at the case. The applicant may take the opportunity to supplement additional information in support of his case. We have also considered the views of the Subcommittee, and will shorten the time to hold a review meeting from four months to three months. If the applicant is still aggrieved by the result of the review, he may lodge an appeal to the CFI under new section 26A.

Fourth, we will make consequential amendments in relation to the aforementioned provisions as well as some textual amendments.

Deputy President, we appreciate that the minor works control system is a new concept, and it takes time for the public to understand how to make effective use of the system. To publicize and promote the minor works control system will be one of the BD's major foci of work in the coming year. The BD will mount an extensive public education campaign to promote the system to both the general public and the industry. It will also maintain close liaison with the industry and minor works practitioners, both during the registration stage and after the implementation of the system, to provide necessary assistance and support, as well as to continuously review and improve the *modus operandi* of the system.

The Subcommittee further pointed out that the authorities should pay attention to the problem of individual owners carrying out building works in the common areas of buildings without obtaining the consent of other owners. Although the BO does not cover legal matters concerning building management, we will include a remark in the specified forms to be submitted to the BD for the commencement or completion of minor works to remind the persons concerned that they should consult other co-owners before conducting minor works in common areas, and be mindful of the civil liabilities under the deeds of mutual covenant.

Some Members proposed that minor works contractors be required to state in the specified forms the locations for them to dispose of construction waste. With respect to this proposal, we need to consider carefully the feasibility and impact because the legislative intent of the BO does not cover the disposal of construction waste. That said, we also support resorting to sound arrangement for construction to protect the environment. The BD will through the promulgation of practice notes and other administrative means to remind minor works contractors that appropriate steps should be taken to ensure proper disposal of construction waste. We will also include a remark in the forms submitted by minor works contractors to the BA to remind them of the arrangement concerned.

To conclude, the minor works control system could facilitate members of the public in carrying out minor works in a much simpler and quicker manner and enhance building safety in Hong Kong. The Regulation has been scrutinized in detail by the Subcommittee, and we have taken on board comments of the

Subcommittee and made corresponding amendments. Such amendments are supported by the Subcommittee.

Deputy President, I implore Members to support the motion. I beg to move.

Thank you, Deputy President.

The Secretary for Development moved the following motion:

"RESOLVED that the Building (Minor Works) Regulation, published in the Gazette as Legal Notice No. 51 of 2009 and laid on the table of the Legislative Council on 1 April 2009, be amended –

(a) by repealing section 7(1)(a) and substituting –

"(a) 1 person nominated by the Building Authority who, in the opinion of the Authority, has knowledge and experience in minor works;"

(b) in section 8 –

(i) by repealing "Part 4" and substituting "Parts 4 and 10";

(ii) in paragraph (c), by repealing "and";

(iii) in paragraph (d), by repealing the full stop and substituting "; and";

(iv) by adding –

"(e) reviewing the decisions of the Authority or recommendations of other Registration Committees under section 26.";

(c) by repealing section 12(1) and substituting –

"(1) The Building Authority may refer, either in whole or in part, an application under section 10(1)(b) to a

Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –

- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
 - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).";
- (d) in section 12, by adding –

"(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.";
- (e) in section 12(3), by repealing "refers the application" and substituting "refers an application";
- (f) by repealing section 12(3)(d) and substituting –
 - "(d) defer the determination of the application for a period not exceeding 6 months, and –
 - (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
 - (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.";
- (g) in section 14(3)(a), by adding "or (2B)(a) or (b)" after "or (b)";
- (h) by repealing section 15(1) and (2) and substituting –

"(1) The Building Authority may refer, either in whole or in part, an application under section 14(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –

- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsection (3).

(2) If the Building Authority does not refer the application to a Registration Committee, the Authority must, within 3 months from receiving the application –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.

(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.

(2B) If the Building Authority refers an application to a Registration Committee, the Authority must, within 3 months from the meeting of the Committee at which the application is considered –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.";

- (i) in section 15(3) and (4), by adding "or (2B)(a) or (b)" after "or (b)";
- (j) in section 15(5), by adding "or (2B)(b) or (c)" after "or (c)";
- (k) in section 17(1)(b), by adding "or (2B)(c)" after "15(2)(c)";
- (l) in section 17(3), in the Chinese text, by repealing "第15(5)(b)款" and substituting "第15(5)(b)條";
- (m) by repealing section 19(1) and (2) and substituting –

"(1) The Building Authority may refer, either in whole or in part, an application under section 18(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –

- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsection (3).

(2) If the Building Authority does not refer the application to a Registration Committee, the Authority must, within 3 months from receiving the application –

- (a) allow the application;
- (b) allow the application in part and refuse the remaining part; or
- (c) refuse the application.

(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.

(2B) If the Building Authority refers an application to a Registration Committee, the Authority must, within 3 months from the meeting of the Committee at which the application is considered –

- (a) allow the application;
 - (b) allow the application in part and refuse the remaining part; or
 - (c) refuse the application.";
- (n) in section 19(3) and (4), by adding "or (2B)(a) or (b)" after "or (b)";
- (o) in section 19(5), by adding "or (2B)(b) or (c)" after "or (c)";
- (p) by repealing section 23(1) and substituting –

"(1) The Building Authority may refer, either in whole or in part, an application under section 21(2) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –

- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
 - (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).";
- (q) in section 23, by adding –

"(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.";

-
- (r) in section 23(3), by repealing "refers the application" and substituting "refers an application";
- (s) by repealing section 23(3)(d) and substituting –
- "(d) defer the determination of the application for a period not exceeding 6 months, and –
- (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
- (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.";
- (t) by repealing section 25(1) and substituting –
- "(1) The Building Authority may refer, either in whole or in part, an application under section 24(1) to a Registration Committee for recommendation if the Authority considers it appropriate to do so after taking into account –
- (a) the nature of the type or types of minor works under one or more classes to which the application relates; or
- (b) any matter that is relevant for determining whether the applicant complies with the requirements set out in subsections (5) and (6).";
- (u) in section 25, by adding –
- "(2A) If the Building Authority considers it appropriate to refer the application to a Registration Committee, the Authority must direct the Committee to meet, within 3 months from receiving the application, to consider the application.";

- (v) in section 25(3), by repealing "refers the application" and substituting "refers an application";
- (w) by repealing section 25(3)(d) and substituting –
 - "(d) defer the determination of the application for a period not exceeding 6 months, and –
 - (i) refer the application again to a Registration Committee for recommendation after that period on the request of the applicant; and
 - (ii) direct the Committee to meet, within 3 months from receiving the request, to consider the application.";
- (x) in Part 4, by repealing Division 6 and substituting –

"Division 6 – Reviews and Appeals

26. Review of decisions of Building Authority or recommendations of Minor Works Contractors Registration Committee

- (1) A person who is aggrieved by –
 - (a) a decision of the Building Authority to refuse the person's application under section 11, 12, 15, 19, 22, 23, 25 or 65;
 - (b) a decision of the Building Authority to defer the determination of the person's application under section 12, 23 or 25; or
 - (c) a recommendation of a Registration Committee made in respect of the person's application for the purposes of section 12, 15, 19, 23 or 25,

may request a Registration Committee to review the decision or recommendation.

- (2) The request must –
 - (a) be in the specified form;
 - (b) be accompanied by the prescribed fee;
 - (c) state the substance of the matter and reasons for requesting the review; and
 - (d) be submitted to the Building Authority within 28 days from the date on which the reasons for the decision, or the decision to which the recommendation relates, were given to the person under section 11(5), 12(8), 15(5)(a), 19(5), 22(5), 23(8), 25(8) or 65(6).

(3) The request does not affect the operation of the decision or the effect of the recommendation.

(4) On receiving the request, the Building Authority must direct a Registration Committee to meet, within 3 months from receiving the request, to review the decision or recommendation.

(5) The Registration Committee must not consist of any member who has considered the application to which the decision or recommendation relates.

(6) In reviewing the decision or recommendation, the Registration Committee may consider any information or documentary proof that was not provided to the Building Authority or the Registration Committee concerned when the decision or recommendation was made.

(7) The Registration Committee may advise the Building Authority to –

- (a) confirm the decision, or the decision to which the recommendation relates; or
- (b) substitute the decision, or the decision to which the recommendation relates, with such other decision as the Committee thinks fit.

(8) Within 3 months from receiving the advice of the Registration Committee in respect of the request, the Building Authority must –

- (a) having regard to the advice –
 - (i) confirm the decision; or
 - (ii) subject to subsection (9), substitute the decision with such other decision as the Authority thinks fit; and
- (b) notify the person making the request in writing of –
 - (i) the advice of the Committee and the reasons for the advice; and
 - (ii) the decision of the Authority under paragraph (a) and the reasons for the decision.

(9) The Building Authority may make a decision to allow the application to which the request relates only if the Registration Committee so advises.

26A. Appeal against advice of Minor Works Contractors Registration Committee or decisions of Building Authority under section 26

(1) A person who is aggrieved by any advice of a Registration Committee, or a decision of the Building Authority, made in respect of the person's request under section 26 may appeal to the Court of First Instance.

(2) The practice for the appeal is subject to any rules of court made under the High Court Ordinance (Cap. 4)."

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

DR RAYMOND HO (in Cantonese): Deputy President, in my capacity as Chairman of the Subcommittee on Building (Minor Works) Regulation (the Subcommittee), I now report on the deliberations of the Subcommittee.

The Subcommittee has held six meetings with the Administration and listened to the views of representatives of the industry and concerned organizations to the Regulation. The Subcommittee supports in principle the introduction of a minor works control system by the Administration and considers that the system will simplify the existing control system to facilitate compliance by the public. Regarding some requirements of the Regulation, the Subcommittee has proposed some improvements and the authorities have agreed to make amendments. I will briefly report on the related discussion.

On the appointment of industry representatives to the Minor Works Contractors Registration Committee (the Registration Committee) to assist the Building Authority (BA) in considering certain applications, the Subcommittee considers the authorities should specify the criteria for appointment. To this end, the authorities have agreed to make amendments to specify that the BA will only nominate a person with knowledge and professional experience of minor works.

The Subcommittee also requested the authorities to specify clearly in the Regulation the circumstances under which the BA refers applications by minor works contractors to the Registration Committee for consideration, and a time limit for referral. The authorities expressed that the BA would consider the nature of the minor works under application, as well as the qualifications, background and experience of the applicant, in deciding whether to refer an

application to the Registration Committee. The authorities have agreed to amend the Regulation to specify the criteria and the time limit for referral, that is, the BA will make referrals to and convene a meeting of the Registration Committee within three months upon receipt of the applications. The authorities will also amend the referral provisions for various applications.

Regarding the BA's consideration of whether an applicant (or a professional nominated by the applicant) has any criminal record in respect of any offence relating to the carrying out of any building works, the Subcommittee requested the authorities to provide in the practice note to be promulgated to the industry the various factors for consideration, including the nature of the offence, seriousness and time of the offence.

The Regulation stipulates that if an applicant is aggrieved by the decision made in respect of his application, he may lodge an appeal to the Court of First Instance (CFI). Members of the Subcommittee considered that small-scale minor works practitioners may not afford the cost of bringing a case to the CFI, and thus requested the authorities to explore alternative channels for appeal. The authorities thus agreed to make amendments to specify in the Regulation that there will be a Review Committee to review unsuccessful applications which applicants have asked for review. The Subcommittee also requested the authorities to shorten the time limit for reviewing the cases from four months to three months to speed up the application process. The authorities have accepted the views of the Subcommittee and made amendments.

Concerning the specified forms for notifying the BA of the commencement and completion of the related classes of minor works, the Subcommittee requested the inclusion of a remark in the specified forms to remind the persons to seek the building owner's/co-owners' prior consent before carrying out minor works in common areas, as well as the responsibilities of such owners, including civil liabilities under the deeds of mutual covenant. In this connection, the Secretary for Development has undertaken in her speech that the arrangements concerned will be made.

The Regulation also specifies that the BA will require the registered minor works contractors to submit photographs showing the physical condition of the premises where the minor works are to be carried out. The authorities have advised that the Buildings Department (BD) will adopt a pragmatic approach to enforce this requirement and will only require practitioners to take photos from

positions which are physically accessible and safe. At the Subcommittee's request, the BD will issue practice notes with examples and illustrations with descriptions of different scenarios to facilitate compliance by the industry.

On publicity, the Subcommittee considers that the authorities should provide publicity information to the public and practitioners to enhance their understanding of the details of implementation of the control system, especially to enhance building owners' understanding of the division of duties among the professional streams of the building industry. The authorities have undertaken to launch extensive publicity and public education and will produce pamphlets with illustrations which are simple and easy to understand, as well as tailor-made technical guidelines to facilitate understanding of the system by the industry and the public.

The Subcommittee considers that although the law has not required owners to take out insurance for building works, it is in the interest of the building owners to take out insurance cover for building works. Therefore, the Subcommittee urges the Administration to follow up with the insurance sector on the insurance arrangements. The authorities have undertaken to follow up and will remind building owners to take out insurance for their building works in the publicity campaign.

The Subcommittee supports the amendments made by the authorities in response to its concerns.

Deputy President, I so submit.

MR IP WAI-MING (in Cantonese): Deputy President, the unemployment rate announced yesterday reached 5.3%, with nearly 200 000 people being out of work, or more than 196 000 people. The unemployment rate of the construction sector remains the highest, which has exceeded 10%, and the workers are facing a situation where out of work means out of food. If the Government can expedite some measures to increase construction jobs, that will help construction workers to find work.

However, due to the necessary administrative work, it takes time for the construction works to commence. Therefore, we hope that the Government can introduce more minor works to solve the unemployment problem of construction

workers. This resolution on minor works proposed by the Government today can increase job opportunities, and we welcome it.

The Hong Kong Federation of Trade Unions (FTU) considers that the implementation of legislation on minor works can bring two major benefits. First, owners can employ registered contractors to carry out minor works, such as the installation of supporting frames for air conditioners, so that having spent the money, the works are at least up to the standard. In the past, despite having spent the money, the works were deemed to be unauthorized building works (UBW). Second, with the Government encouraging the owners to inspect the safety of existing UBW, more job opportunities will be created.

In the past, when owners carried out renovation works, alterations or simply installed an air conditioner, the BD's approval of their building plans and its written consent had first to be sought before works could proceed. Professionals also had to be engaged to design and supervise the works as they proceeded. The problem was that minor works like the installation of an air conditioner, an aluminium window or a drying rack might cost only a few hundred dollars or a little more than \$1,000, but if the works were conducted in full compliance with the entire legislation, the cost incurred might be over \$10,000, rendering the works and the cost totally disproportionate. As a result, it was impossible for numerous minor works to be carried out in accordance with the law and they were thus reduced to UBW. Because of this, there are tens of thousands of UBW in Hong Kong, and some of them have also become dangerous UBW for lack of repairs over the years.

The Ordinance on minor works was passed last year. Coupled with the passing of today's Regulation, there will finally be more reasonable arrangements for minor works in the future. While owners no longer need to bear the blame of carrying out UBW for simply installing a drying rack which becomes an unauthorized structure, the Government's registration system can also avert situations where pedestrians are jeopardized as a result of rough and slipshod works in the absence of supervision.

Moreover, the Household Minor Works Validation Scheme has been set up under the minor works control system. Under the Scheme, the public can employ specified building practitioners and registered contractors to carry out works to examine supporting frames for air conditioners, drying racks, small window hoods and the like, before the commencement of the legislation. If it is

validated that there is no immediate danger, the structures can remain in use. While this is convenient to the people on the one hand, minor works can also be increased immediately on the other. To those people engaged in minor works and to some small shops, we think this can increase the job opportunities of workers, thus benefiting both parties.

Deputy President, upon the commencement of the legislation, we hold that apart from explaining to some practitioners of the construction industry, clear messages should also be sent to all owners so that they can understand that employing registered contractors to carry out minor works is not equivalent to saying that the minor works are legal. Instead, requirements such as the deed of mutual covenant should be taken in account when carrying out minor works. As regards some structures which may be UBW, according to the results from the scrutiny of the Regulation, those which were considered UBW in the past may remain to be UBW according to legislation despite this Scheme. Therefore, we hope that the Government can step up publicity in this respect, so that owners can be made more aware of their rights and obligations in this regard.

I so submit. The FTU supports this motion.

MR IP KWOK-HIM (in Cantonese): Deputy President, I speak on behalf of the DAB in support of the resolution.

Just as the Secretary and Dr Raymond Ho mentioned earlier, the Subcommittee has held many meetings within a short span with only one purpose, that is, to complete the scrutiny as soon as possible for the provisions to be passed and to commence early.

The DAB is very supportive of the policy intent of this resolution which introduces the minor works control system. From the angle of bringing convenience and benefits to the people, upon the passage and commencement of the resolution, the existing building control system for minor works can be simplified. Not only can the public carry out the necessary minor works with greater convenience and in a more economic way, government resources can also be more effectively deployed. This is the primary and the most important purpose of this policy.

With my many years of experience in district affairs and in dealing with the carrying out of various building works and minor works by building owners, in the process of scrutinizing this resolution, I discovered that very often, despite the good intention and original intent of the policy, if there is no thorough understanding of the actual situation, the specific administrative or enforcement measures would become disconnected with the reality, backfire and cause nuisance to the people.

There is a practical need to target installations before the commencement of the minor works control system. For minor structures then regarded as illegal, such as the supporting frames for air conditioners, drying racks and small canopies mentioned earlier, under the existing legislation, they come under the Household Minor Works Validation Scheme whereby owners can employ authorized professionals to carry out inspection. If validated to be safe, although their status remain to be "unauthorized", their owners or building owners can retain them for use. Just as what the Secretary and Dr HO said earlier, this is actually a pragmatic arrangement. In the course of this scrutiny, the Government has readily heeded the various views put forward by Members. I really appreciate this attitude of the Government. This time, the Government has made many amendments, including providing for the time limit for the BA to make referrals to the Committee, and shortening the time required for arrangements for practitioners to register and to seek review of appeals. I believe this will be more in line with the demand of the people and the industry, rendering the enforcement of the policy smoother and more effective.

Although the Building (Minor Works) Regulation does not cover building works approved by the BD which must have the approval of the owners, and there are problems such as those involving the disposal of construction waste of minor works, having listened to the views of members, the Government has undertaken to include remarks in the forms concerned (Secretary Carrie LAM has mentioned this earlier) to remind owners of structures that before carrying out the works, owners should first be consulted. They are also advised to pay attention to their civil liabilities under the deed of mutual covenant. On the disposal of waste resulting from the works, the authorities also consider requiring registered minor works contractors to provide locations for the disposal of construction waste. The Government will also consider making requirements in this respect. Therefore, I consider this open attitude of the government officials worth approval and support.

This registration system for the control of minor works is a new concept and a new policy, and those affected will be the people and the industry who will carry out the types of minor works to come under control in the future. Therefore, when implementing this system, extensive and effective publicity among the public and the industry should be launched to them to gain a clear understanding of the policy and its operation. I believe this is the key to the successful implementation or otherwise of the policy initiatives.

With these remarks, Deputy President, I support the resolution.

MISS TANYA CHAN (in Cantonese): Many Honourable colleagues have spoken on this new Regulation. I agree with them, and I believe the Deputy President should also have some personal experience because we conducted totally six meetings within a fairly short period of time. I can still remember that the first meeting was held on a Thursday. It so happened that the Council meeting which started the day before did not end until 2 am on that particular Thursday, that is, 23 April. That Thursday morning, we held the first meeting. Despite all the time clashes, members of the Subcommittee all tried to attend the meetings by all means. With their experience of community work in the past or their understanding of the industry, members made a lot of very useful suggestions and tendered professional advice on the Regulation. In one of the meetings, practitioners and owners' representatives, especially the latter, expressed the worry that the Regulation might affect their existing installations or their works projects in the future. They feared that they might not know what to do. At that time, we met with more than 10 representatives. Members were especially concerned about Class III Minor Works because some individual operators might have opportunities to take part. However, we are worried that in many cases, they may not clearly understand the legal consequences of the commencement of the Regulation. And, we are also worried that their understanding of the new arrangement may not be good enough. The Government has undertaken to maintain communication with them, provide them with assistance and also conduct education and publicity. As for the application form, I myself have looked at it and found that it is actually fairly simple. I hope that the form can enable individual operators and individual practitioners to notify the relevant authorities of the works they have carried out in a convenient manner.

We have actually mentioned that the validity period of this type of licences is three years. I can remember that the Government once undertook to consider the possibility of sending reminders about four months before licence renewal (for a licence must be renewed four months before expiry). It is hoped that the Government can adopt or at least consider the possibility of adopting the practice for driving licences People may forget to renew their driving licences after 10 years. It is therefore hoped that reminders can be sent or arrangements can be made for group renewal.

As we can see, the minor works under discussion are closely related to people's life, so I hope that efforts can be made to make owners and organizations such as Owners' Corporations and Owners' Committee better understand the Regulation.

Besides, I am also concerned about a few parts of the Regulation. One example is the Household Minor Works Validation Scheme, that is, Part 9 of the Regulation. Mr IP Kwok-him already mentioned just now that minor works installations which were illegal in the past would not become legal even if they were inspected and certified to be safe under the Scheme. However, I still think that owners should be reminded of their legal liabilities.

With regard to insurance, we note that a potential problem is mentioned in the report prepared by the Secretariat. We do know that the minor works deemed to be illegal will not become legal after validation, but we also know that the Government has been actively promoting the purchase of third party insurance by Owners' Corporations of buildings. The matter may need further exploration.

I have handled some such cases. The important thing is that if there are really any violations of the Regulation, the Government should enforce the law sternly, so as to deal with the illegal installations concerned. Illegal installations should be destroyed and replaced by legal installations. The law must be enforced strictly.

On behalf of the Civic Party, I support the resolution. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Development to give her reply. This debate will come to a close after the Secretary for Development has replied.

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I am very grateful to the four Members who have spoken in support of amending the Building (Minor Works) Regulation (the Regulation). Actually, in handling building repairs and maintenance, we can always learn a lot from Members' practical experience and their experience in handling district affairs. This is again evident in the scrutiny of the Regulation. Therefore, I am very thankful to the Subcommittee on Building (Minor Works) Regulation (the Subcommittee). Under the chairmanship of Dr Raymond HO, the Subcommittee has given us valuable views.

The minor works control system is in fact a new scheme. We will launch a large-scale publicity drive to enable stakeholders, especially owners about whom several Members are very much concerned, to understand the impact of the new system on the safety of their buildings.

Regarding insurance arrangements for minor works or validated structures mentioned by Dr HO and Miss Tanya CHAN, although the Buildings Ordinance does not require owners to take out insurance for building works, we agree that it is in the interest of building owners to take out insurance cover for building works. Therefore, the Buildings Department has been liaising with the insurance industry and the construction industry to foster exchange of views and co-operation between them to develop insurance products relevant to minor works. We will continue to discuss with the insurance industry and the construction industry, and will, in the publicity programme to be launched later, remind building owners to take out insurance for their building works.

Like Mr IP Wai-ming, I also think that if the minor works control system can be implemented soon, in particular the Household Minor Works Validation Scheme (Validation Scheme), it should somehow ease the unemployment

situation of construction workers, especially those engaged in decoration and maintenance. Thus, we hope to strive for the introduction of the Validation Scheme by year-end.

Our next step is to amend the subsidiary legislation pertaining to the fees for registration, as well as the other pieces of subsidiary legislation which have to be amended accordingly, and submit them to the Legislative Council for scrutiny. If passed by the Legislative Council, we expect the registration procedure for minor works contractors to come into operation officially by the end of the year.

Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Development be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

MEMBERS' MOTIONS

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

DEPUTY PRESIDENT (in Cantonese): First motion: Urging enterprises to fulfill their social responsibility.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr CHAN Kam-lam to speak and move his motion.

URGING ENTERPRISES TO FULFILL THEIR SOCIAL RESPONSIBILITY

MR CHAN KAM-LAM (in Cantonese): Deputy President, the concept of corporate social responsibility (CSR), a much trumpeted concept in overseas investment markets, has become a factor of consideration in a number of portfolios. According to a report published by Social Investment Forum in 2007, the scale of global investment has seen a 260% growth between 1995 and 2007, with the amount of investment rising from US\$7 trillion to US\$25.1 trillion. As early as in 2001, the FTSE4 Good Index was created by the FTSE Group to provide investors concerned with social responsibility with the relevant criteria. For instance, consumers will purchase green products and take green public transport offering fare waivers or concessions to the elderly or people with disabilities. Moreover, some enterprises have recently sought to boost their images by not effecting layoffs and pay cuts. This shows that CSR has become a topic of wide concern to society today.

(THE PRESIDENT resumed the Chair)

Nevertheless, the fulfillment of CSR in Hong Kong has found to be unsatisfactory. According to the findings of a survey conducted by Oxfam in May last year on the CSR of the Hang Seng Index constituent stocks, 58% of 43 major listed corporations were unexpectedly classified as backward corporations. The findings of a public survey conducted by the DAB last week on CSR also show that the public rating of enterprises was only 2.54 on average, lower than the passing mark of three.

President, the Chief Executive mentioned in the policy address published in October last year that enterprises should not only play the economic role. Instead, they should fulfil greater social responsibility. In February this year, Financial Secretary John TSANG made another appeal by requesting enterprises not to effect layoffs easily unless as the last resort. However, we have seen enterprises scrambling to effect layoffs and pay cuts during the past nine months. According to the latest published data, the unemployment rate has risen to a record high of 5.3% in 41 months, and the number of the unemployed ranks has also risen to 196 900. Ironically, the organizations headed by five members of the Task Force on Economic Challenges, which is specially tasked with tackling the financial crisis and creating job opportunities, have taken the lead in effecting layoffs. As a result, the Task Force has been ridiculed as "Task Force on Layoffs".

We understand Hong Kong economy is experiencing the most serious recession since the financial turmoil in 1998. At this critical moment, it is all the more imperative for the community to be united and stoically face up to the economic hardships. Certainly, we hope enterprises experiencing operational hardship and plagued with difficulties can continue to operate. At the same time, the Government should also increase its vigour in giving them support. Communication between employers and employees should also be enhanced in order that both can tide over the hard times together. However, for enterprises which have been making profits and prospering, they should take into account the overall interests of the community while seeking to make profits. How can their accomplishments be possible without the vigorous support by the Government and the community?

Let me cite the HSBC stock, a leading corporate, as an example. Minority shareholders in Hong Kong can be described as having affection and faith in its stock as they are still willing to actively participate in the rights issue. However, while the financing exercise has only just started, HSBC has effected layoffs. Although the corporation has seen its profit in 2008 slightly dropped, its profit has still exceeded HK\$44.6 billion. The annual profit for the previous five years has even reached 26% to 31%. In 2007 alone, its net profit reached HK\$149.2 billion. It goes without saying that the public should feel resentful. No wonder more than 21% of the respondents of a survey conducted by the DAB regarded the layoff effected by HSBC having the most profound negative impact on CSR.

With leading enterprises taking the lead in effecting layoffs, a number of corporations with handsome profits also follow suit by using the financial tsunami as the pretext to effect layoffs and reduce wages, thereby shaking the determination of the community as a whole in weathering the economic recession.

Enterprises should not only make an effort to improve labour relations, they should also treat minority shareholders fairly by enhancing the transparency of corporate decision-making. However, the case of the privatization of PCCW has fully exposed the fact that major shareholders have recklessly resorted to various extreme ploys to maximize their private interests, whereas minority shareholders can only succumb to the reality helplessly.

It was clearly pointed out in the judgment of the Court of Appeal that there was a manipulation of votes under the privatization scheme. The Pacific Century Group was also criticized for proposing the scheme at a low price, such that minority shareholders would be unable to reap profits even when the asset rises in value in future. This means that the majority shareholders are effectively forcing minority shareholders out by acquiring their shares at low prices, thus "confiscating" their chances of recouping losses. Meanwhile, the majority shareholders will be able to reap a net profit of \$2 billion from the scheme without spending a cent. All these have been questioned by the Judge of the Court of Appeal. This is why the survey conducted by the DAB has also revealed that more than 14% of the respondents regarded the PCCW incident as having the most profound negative impact on CSR in Hong Kong.

Apart from this, we have also seen such problems as misleading tactics being adopted in the sale of products, problematic risk assessments, inadequate disclosure by banks and dubious operational practices involved in the selling of Lehman Brothers minibonds by banks. The pressure exerted on front-line staff because of the performance benchmarks imposed and a spate of recent incidents involving problematic medicine, "cheating of customers" by supermarkets on bargain days, rent increases in shopping arcades against the market trend, and major public transport operators' reluctance to provide concessionary fares for the elderly and people with disabilities, and so on, have all reflected that enterprises in Hong Kong have a wide range of shortcomings in governance and fulfillment of their social responsibility and that they have failed to respond to the aspirations of the community.

This kind of neglect of CSR is certainly not unique to Hong Kong. The financial tsunami has also exposed the greediness of the senior staff of some enterprises in western societies. For instance, there was a public uproar when the AIG, which should be regarded as technically bankrupt, on the one hand accepted the injection of US\$170 billion by the United States Government and, on the other, granted a colossal sum of US\$165 million in bonuses to its finance department, the culprit for plunging the group into dire straits. Fannie Mae, Freddie Mac and such major enterprises as Merrill Lynch, Citibank and General Motors, which are similarly in need of rescue by the United States Government, have either continued to grant colossal sums of bonuses to their senior staff or arranged vacations to be taken in luxurious hotels, or even used private jets to ferry their senior staff to meetings, in stark contrast to the plight faced by the enterprises.

Fortunately, not all employers are oblivious of their social responsibility. A large number of enterprises, though overshadowed by the financial tsunami, have continued to inject substantial resources into endeavours for worthy causes. It has also been reported by the media that quite a large number of SME employers with conscience have still set aside sufficient funds to provide their employees with compensation in excess of the requirements of the law even though they cannot avoid the bad luck of closure. During the recent outbreak of H1N1, many enterprises made great efforts in cleaning in response to the Government's appeal for joint efforts in combating the epidemic. Some of them have even fully complemented the Government's anti-virus measures without uttering a word of complaint despite drops in their business turnover.

The DAB is of the opinion that, apart from relying on the conscience of employers, enterprises should also establish a comprehensive system for fulfilling social responsibility. In this regard, the Government is duty-bound to make an effort. According to a survey conducted by the DAB, more than 82% of the people interviewed agreed that the Government should be responsible for this. Its support is particularly important at a time when some enterprises are currently confronted with operational difficulties.

With respect to this year's budget, the DAB proposed that \$600 million be spent to launch a wage subsidy scheme for newly-created posts. Under the scheme, enterprises will receive a monthly subsidy of \$5,000 or a subsidy equivalent to half of the monthly salary for each newly-created post if the enterprises have not effected layoffs or pay cuts over the past six months.

Despite the launch of an internship programme for university students by the Government, we still hope that the authorities can actively consider the abovementioned proposals put forth by the DAB for the benefit of the public and enterprises alike.

We also propose that communication with enterprises be stepped up for further understanding of the difficulties encountered by enterprises in fulfilling their social responsibility so that complementary efforts can be made policy-wise. Furthermore, the Government should study ways to, through establishing a comprehensive system, commend enterprises for fulfilling their social responsibility for enhanced public recognition.

According to a survey conducted by the Committee on the Promotion of Civic Education in 2007 on the civic awareness of enterprises in Hong Kong, nearly 70% of the enterprises considered that the Government should provide enterprises having fulfilled their social responsibility with preferential treatment or tax concessions. It is indeed worthwhile for the Administration to give consideration to these directions.

Of course, as the territory's largest employer, the SAR Government should set an example by stepping up monitoring of contractors and fostering a favourable atmosphere for enterprises to fulfil their social responsibility.

President, enterprises can fulfil different social responsibilities at numerous levels. It is hoped that the motion proposed by me today can throw a sprat to catch a whale, such that the amendments proposed by Honourable Members can be supplemented. I will respond again later in the meeting. With these remarks, I beg to move. Thank you, President.

Mr CHAN Kam-lam moved the following motion: (Translation)

"That, amid the financial tsunami, the general public of Hong Kong are stoically facing up to economic hardship, yet some enterprises have still effected layoffs and pay cuts despite making huge profits, and fail to go through the hard times with the public; on the other hand, the management and major shareholders of individual enterprises have recklessly resorted to various ploys to maximize their private interests, while the interests of minority shareholders are left unprotected; as such, this Council urges the Government to create a favourable environment for enterprises to fulfill

their social responsibility, implement employment training programmes, and support those enterprises which are in difficulty, while at the same time discussing with the business sector to urge enterprises that, in seeking to make profits, they must also take into account the overall interests of the community, enhance the transparency of corporate decision-making, strengthen communication with their employees, fulfill their social responsibility and must not effect layoffs and pay cuts, so as to safeguard the rights and interests of employees and minority shareholders."

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

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

I will call upon Mr WONG Sing-chi to speak first, to be followed by Mr Tommy CHEUNG, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mrs Regina IP, Mr Ronny TONG, Mr IP Wai-ming, Mr LEUNG Kwok-hung and Mr LEE Cheuk-yan; but no amendments are to be moved at this stage.

MR WONG SING-CHI (in Cantonese): President, with the global economic recession further worsening, the local unemployment rate has gradually risen to 5.3% and the number of unemployed people has hit 196 900. Last week, the Financial Secretary also announced that the Gross Domestic Product (GDP) of the first quarter had fallen to a new low of -7.8% since the financial turmoil in 1998. Adding that this year's external economic situation would be even worse than what was initially expected by the Government, the Financial Secretary undertook to launch measures to alleviate hardship within a month. President, I have no intention to discuss whether the Government has sized up the situation inaccurately and whether or not the package for injecting additional resources has come too late. But in the light of the Government's undertaking to launch more measures, it is hoped that the \$25 billion proposal put forth by the Democratic Party for injecting additional resources can be adopted to ease the hardship of the people expeditiously.

President, in the light of the economic decline, the labour market will inevitably continue to deteriorate and enterprises' sense of fulfilling social responsibility will become even weaker. A number of enterprises, which have evidently been making huge profits, have seized the opportunity of the financial tsunami for its own benefit by streamlining its structure in name but effectively exploiting the benefits of their employees by way of suppressing wages and even layoffs. The Hong Kong Television Broadcasts Limited (TVB), as reported in the news today, is a case in point. In addition to laying off 212 staff at the end of last year and another 50 in February this year, the TVB indicated today that 110 posts would be made redundant for the sake of streamlining its structure to cope with new developments. I think enterprises like this one should really feel ashamed in front of Hong Kong people. We can often hear major enterprises say after announcing their layoff plans that there would be no more layoff plans in the near future, but actually many enterprises will continue to effect layoffs. The TVB, cited by me earlier, is a case in point, only that these enterprises will not effect massive layoffs as they did previously. For the sake of avoiding damaging their corporate image, they would effect layoffs at intervals to ensure that their actions would not be covered by newspapers. The TVB, however, does not care about its corporate image.

The social responsibility and conscience of many enterprises have apparently been swept away by the financial tsunami. As many people know, the Caring Company Scheme, operated by the Hong Kong Council of Social Service, seeks to encourage enterprises to fulfil their social responsibility. This Scheme, highly praised by the Democratic Party, also encourages enterprises to fulfil their social responsibility by offering assistance to the disadvantaged. When an award ceremony was staged by the Scheme in February, however, some members of the Democratic Party and I protested outside the venue because we believed some award-winning enterprises had merely sought to boost their reputation through participating in the Scheme and completely forgotten about their social responsibility amid the financial tsunami for they had wasted no time in laying off their staff, had no intention to tide over the difficulties with the people of Hong Kong, cared merely about seeking profits for their shareholders and made disappointing decisions.

President, many enterprises have a very weak sense of fulfilling social responsibility mainly because employers do not pay enough attention to labour rights and interests. Therefore, I mainly seek to add two points in my amendment by proposing to, first, legislate afresh to protect employees' right to

collective bargaining, and second, amend the Employment Ordinance to prohibit employers from dismissing their employees under unfair circumstances.

There is currently no statutory protection for the right to collective bargaining in Hong Kong. Since the status of employees and unions is not equal to that of employers, the bargaining power of employees is weak. Some enterprises have even taken advantage of such inequality and unilaterally revised conditions of employment by making such unreasonable demands as pay cuts, abolishing the double pay and taking no-pay leave to their employees. For the sake of retaining their jobs, most employees have opted to suffer in silence and allow themselves being preyed on freely. As there is virtually nothing employees without the right to collective bargaining and bargaining power can do in response to pay cuts and layoffs, the exploitation of employees by employers will only get increasingly worse given the continued economic downturn.

Employers have always believed that the right to collective bargaining will only give employees more power, thereby injuring the interest of enterprises. But, President, as everyone knows, the bargaining power of employees in Hong Kong has all along been very weak. The right to collective bargaining will only balance the currently unequal labour relations to ensure that both employees and employers will enjoy an equal status in conducting discussions on employees' remunerations and benefits. In fact, it is all the more necessary for the right to collective bargaining to be established during the economic downturn for the sake of ensuring that both parties are given sufficient time to negotiate reasonable employment arrangements, before employers resorting to layoffs or altering conditions of employment, for the sake of achieving a win-win situation by stabilizing labour relations. This is why the Democratic Party calls on the Government to legislate afresh to protect employees' right to collective bargaining, and establish a fair and institutionalized consultative mechanism for employers and employees, with a view to resolving differences between the two parties.

Moreover, there is currently no legislation dealing with unfair dismissal in Hong Kong. Given the present economic downturn, it is even more likely for employers to lay off employees for a variety of reasons or excuses, such as employees taking maternity leave. In recent years, the Equal Opportunities Commission has also seen a rising trend of complaints lodged by pregnant employees against discrimination. Some of the employees were even dismissed the first day they resumed duty upon completion of their maternity leave, and

their financial support was gone all of a sudden. In participating in union activities, many employees are also afraid of being singled out by their employers in revenge. Employers have often resorted to dismissal as a means to invalidate the rights enjoyed by employees in one go, with a view to putting employees' struggles to an end.

A study conducted by the Legislative Council Secretariat last year on unfair dismissal reveals that a number of countries, such as the United Kingdom, France, the United States, Australia, South Korea and Singapore, have legislation regulating unfair dismissal. According to Hong Kong's existing Employment Ordinance, however, an employer basically can dismiss an employee by giving the employee adequate compensation, and there is no way for the employee to protest. However, can it be regarded as fair so long as adequate compensation has already been made? I believe Honourable Members all have an answer in their minds. The Democratic Party is therefore of the opinion that the problem of unfair dismissal must be addressed squarely and employers must be seriously punished for dismissing employees arbitrarily.

Hence, the Democratic Party also urges the Government to amend the Employment Ordinance with a view to prohibiting employers from dismissing employees under unfair circumstances.

I so submit.

MR TOMMY CHEUNG (in Cantonese): President, with the progress in time and changes in concepts, I think enterprises nowadays can no longer care only about making profits. They should also endeavour to fulfil social responsibility on the condition that it is performed on a voluntary basis and within their ability. This explains why the Liberal Party approves of the spirit of the original motion, and I will propose an amendment for complementary and illustrative purposes.

What I mean is while enterprises are certainly required to come up with ways to fulfil social responsibility, they should not be forced to do so, given that the capacity and conditions of various enterprises are different. This is like doing charity. Individuals can only act according to their own capacity. We cannot compel everyone to act in the same manner. Nor can a standard be set for every one to follow. Instead, the Government should encourage everyone to

make an effort in the spirit of allowing them to make contributions according to their own preference.

This is why since the onslaught of the financial crisis in September last year, the Liberal Party has been calling on all enterprises, if circumstances permit, to avoid layoffs or pay cuts by all means and tide over the difficulties with their employees to prevent unemployment from worsening and avoid breaking the rice bowls of wage earners. Late last year, Mr Vincent FANG and I even took concrete actions by launching a "no-layoffs charter" whereby enterprises of different trades and industries irrespective of their size were invited to participate to encourage enterprises in Hong Kong to, in the face of the challenge posed by the financial tsunami, tide over the hard times together with their employees. So far, nearly 1 000 enterprises have signed the charter. Evidently, the proposal of the Liberal Party has gained the recognition of many enterprises with conscience.

Although some lucrative, major enterprises are prepared to effect massive layoffs and pay cuts in order to pursue more profits or keep their profits at a high level, the Liberal Party considers such behaviour not worthy of support. In fact, our economic prospect is becoming more and more severe, with the GDP of the first quarter recording the largest fall of 7.8% in Hong Kong economy since the occurrence of the Asian financial turmoil in the third quarter of 1998. The Government has even lowered the territory's annual economic growth forecast substantially by adjusting downward from the previously forecast rate of -2% to -3% to -5.5% to -6.5%. Fortunately, the latest quarterly unemployment rate published yesterday has recorded only a slight rise to 5.3% compared to last month. I think this has something to do with enterprises' willingness to bite the bullet and tide over the hard times together with their employees. I very much hope that this spirit can persist.

But the key also lies in whether enterprises can survive the dual-impact of the financial tsunami and human swine influenza, and the prerequisite also hinges on whether the Government can provide enterprises with a favourable operating environment to enable them to gain a firm foothold before they can continue to survive and then fulfil their social responsibility.

The Government should also remove barriers and streamline procedures, as I have repeatedly emphasized before, and implement favourable business-friendly policies at appropriate times. It might consider, for instance, rebating the provisional profits tax, raising the amounts of the Government's guarantee for the

two existing SME Loan Guarantee Schemes to a standard rate of 90%, extending the Special Loan Guarantee Scheme to at least the end of this year, and reducing licence fees and related government charges for trades and industries in dire straits. This is because enterprises must be able to stay afloat in the bitter economic winter before they can be expected to continue assuming more social responsibility.

Of course, enterprises themselves should enhance the quality of corporate governance by, for instance, upgrading the quality of monitoring, making effective use of resources, enhancing communication between staff of various levels, boosting the application of information and technology, and protecting the rights and interests of minority shareholders.

Nevertheless, when it comes to the social responsibility of enterprises, public organizations apparently warrant more of our attention simply because of the community's expectation for them as their operation is basically financed by the Government and they enjoy enormous advantages in their respective service domains. But unfortunately, some public organizations have merely striven to expand by exploiting their advantages and even reached such a stage where they are even prepared to compete with the private sector for profits merely for the sake of making money.

Let me cite The Link REIT (The Link) as an example. Although The Link is not a public organization, its shopping arcades are all operated in public housing estates. When the shopping arcades were built years ago, their major mission was to serve the nearby public housing residents. Today, these public housing residents remain their largest source of patrons. Therefore, it is unreasonable for The Link to exhaust all possible means to make profits by raising rents substantially, eliminating the original business operators, compelling business operators to occupy small shop spaces instead of big ones and operate businesses in shops of silent corners rather than busy passages, not to mention that the management of The Link made it clear that it would assume its due social responsibility on the day when The Link was listed.

In my opinion, The Link has been making handsome profits every year, with a profit of \$5.139 billion made during 2007-2008. It is therefore absolutely unjustified for The Link to fail, time and again, to have regard for its social responsibility and serve the interests of residents and small business operators.

The MTR Corporation Limited (MTRCL), a mass transit carrier as well as a statutory body, has also failed to give due weight to its social responsibility. Earlier on, for instance, it refused to resume the concessionary fares for elderly people taking MTR on holidays. It was only after the campaign by the Liberal Party and various sectors that the concession was reluctantly resumed on a limited basis. Such a mean approach is utterly undesirable. This is why the Liberal Party made another appeal yesterday to the MTRCL to assume its social responsibility by undertaking not to abolish the concessionary monthly tickets for the East Rail and West Rail, extending the feeder bus services for the West Rail and the Light Rail Transit, providing \$2 concessionary fares for the elderly during non-peak hours, expediting the retrofitting of platform screen doors at MTR Stations, and so on.

President, as a major public organization, the Hong Kong Trade Development Council has also been criticized for competing with the private sector for profits. On the one hand, it promotes business and commercial activities on behalf of the Government but, on the other, it operates convention and exhibition business in pursuit of profits under the pretext of being a self-financing organization. Its conflict of roles is so serious that it seems to be suffering from schizophrenia.

For this reason, the Liberal Party shares the statement made in Mrs Regina IP's amendment about public organizations because, compared with private enterprises, public enterprises indeed possess more resources. Coupled with the fact that the services provided by public enterprises have a close bearing on the livelihood of the public, it is imperative for public organizations to assume more social responsibility.

However, we can hardly support Mrs Regina IP's amendment since she calls on the Government to formulate guiding principles for the management of public organizations and peg the pay/bonus to social responsibility as the sole standard without taking into account performance or effectiveness of the services provided.

The Liberal Party supports the original motion and Mr Alan LEONG's amendment because they are most reasonable. Mr WONG Sing-chi, Mr Ronny TONG and Mr LEE Cheuk-yan have all mentioned the need to legislate on the right to collective bargaining in their amendments. As we are concerned that

legislation might, on the contrary, make the relations between employers and employees confrontational, we cannot support their amendments.

Mr CHEUNG Kwok-che proposes to make it mandatory for organizations and enterprises to implement a quota system for employing people with disabilities. This is something the Liberal Party has all along been opposing. Mr IP Wai-ming's amendment is definitely not worth supporting as it proposes that the Government should only make labour protection a major tender assessment criterion when inviting tenders for government contracts without taking into account the quality of the services provided and whether public money is used properly. The Liberal Party also finds it impossible to support Mr LEUNG Kwok-hung's amendment because it proposes to delete the wordings of "discussing with the business sector" and "accord priority to the overall interests of the community".

President, I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): President, the motion today is "Urging enterprises to fulfill their social responsibility". Regarding the issue of enterprises effecting layoffs and pay cuts and the views on protecting employees' right to collective bargaining and unfair dismissal, colleagues have introduced relevant amendments, and I will support all these proposals which are beneficial to labour rights and interests. As for my own amendment, it is mainly hoped that the Government can show concern for people with disabilities and ex-mental patients who are capable of working by creating more job opportunities for them.

Social prosperity is built on the tripartite efforts of employees, employers and the Government. For instance, the Government should be responsible for providing enterprises with infrastructure, a fair system of rule of law, a reasonable tax regime and global communications. Prosperity can only come into being through the provision of a favourable investment environment with the input of capital and management by enterprises and employees' devotion and creativity. Therefore, however good or bad the economy is, enterprises must assume their social responsibility by, for instance, abiding by the law, paying taxes, offering reasonable wages to employees, repaying the community, showing concern for the disadvantaged social groups, and so on. However, quite a number of major

enterprises have often used "being accountable to shareholders" as a pretext to effect layoffs and pay cuts. Have they forgotten their social responsibility?

In the light of the severe economic situation, the Government has launched a programme to provide subsidy for enterprises employing university students. If even university students with strong competitiveness need assistance, then people with disabilities, who have long been subject to discrimination, would have an even greater need for government support. According to the statistics published by the Census and Statistics Department (C&SD) in 2008, there were around 360 000 people with disabilities in Hong Kong. I must emphasize that this figure has underestimated the actual situation as the number of people with intellectual disability has not been taken into account. Of these 360 000 people, only 41 000 are employed. According to a conservative estimate by people in the trade, if people with disabilities who are not fit for work are excluded, the unemployment rate of people with disabilities who are capable of working will be higher than 30%. While the overall unemployment rate published by the Government yesterday, which stood at 5.3%, has already made people worry a lot, the Government is still turning a blind eye to the unemployment rate of people with disabilities, which has remained at a persistently high rate of 30%. As an open-minded and inclusive society, Hong Kong must implement policies that can assist people with disabilities in integrating into society and establish a quota system, which is consistent with the actual social circumstances and capable of balancing the interest of all relevant parties, for the employment of people with disabilities.

As we all know, the Government has all along had a policy for providing services to assist people with disabilities in seeking employment to, on the one hand, enhance their employment capacity and, in the light of market needs, provide training to assist them in seeking employment in the market and, on the other, educate and encourage employers to employ these people through the selective placement scheme. In fact, all these are dependent upon the fulfillment of social responsibility by enterprises. If employers do not give people with disabilities employment opportunities, how can these people demonstrate to employers their strengths even if they possess excellent working ability? A quota system, if implemented, can ensure that people with disabilities are given equal opportunities to dismiss bias with actions and performance.

We are aware that quota systems for employing people with disabilities were put in place in Germany, France, Austria, Poland and Italy in Europe, as

well as Japan, South Korea, Malaysia, India and Thailand in Asia a long time ago. Even our neighbours, the Mainland and Taiwan, are more advanced than Hong Kong in this regard. As early as in 2000, a law requiring arrangements to be made for employing people with disabilities on a pro rata basis was enforced in Guangzhou. Under a law requiring employment of fixed numbers of people with disabilities in Taiwan, the ratio between ordinary employees and people with disabilities employed by public organizations is 50:1, and 100:1 for private enterprises. According to representatives of organizations for people with disabilities from Guangzhou and Taiwan, quota systems can effectively enhance job opportunities for people with disabilities. In this amendment proposed by me today, it is hoped that a quota system for employing people with disabilities be implemented in government departments or public organizations first and then extended gradually to the private sector, or the quota be gradually raised from a lower ratio to a suitable level. The Government can also offer tax concessions to private enterprises employing people with disabilities with a view to encouraging the business sector to employ people with disabilities.

It is worried that a quota system might impose burdens on business operators or intervene in the free market. All these concerns actually originated from bias against people with disabilities that they are not capable of working. In fact, many of these people might only be different from us mentally or physically. Although they might be worse off than us in certain aspects, they are better than us in other aspects. As we all know, many physically disabled persons have made brilliant achievements in design and arts. Some people with a mild degree of intellectual disability can also exploit their talent after training. Exploring people with disabilities with potential can not only help them, but also provide our community with new impetus. The Government is therefore duty-bound to implement a quota system.

We understand that the current proportion of people with disabilities employed by the Government is 2.1%. The Government should therefore adopt a more proactive approach in encouraging various departments to employ people with disabilities. At least, the public sector should take the lead in doing so. Given that the proportion of people with disabilities employed by the Government has already reached 2.1%, how difficulty it could be if it is made compulsory for this indicator and quota to be implemented immediately by various government departments, the public sector and subvented organizations? Legislation is only a formality. Most importantly, the Government's

determination should be manifested through legislation. Therefore, the Government should expeditiously publish the unemployment rate of people with disabilities to raise our awareness of the employment difficulties currently confronting these people.

Last week, Mr Matthew CHEUNG, Secretary for Labour and Welfare, announced during a media briefing on an On-the-Job Training Scheme for people with disabilities that the subsidy currently received by employers for employing a person with disabilities will be raised from \$3,000 to \$4,000, and the probation period will also be extended from three to six months. I am very pleased to see the Government's commitment to the on-the-job training given to people with disabilities as such training is much more effective than sheltered workshops in assisting people with disabilities in integrating into society. It is therefore hoped that the annual quota for on-the-job training given to these people can be raised.

In fact, no matter how many training programmes and services are provided, the opportunity provided would still be less than that provided if legislation is enacted to implement a quota system for employing people with disabilities. This explains why I hope a two-pronged approach can be adopted by the Government.

President, I so submit.

MR ALAN LEONG (in Cantonese): President, dating back to the 1980s of the 20th century, "corporate citizenship" is a new jargon for expressing the concept of corporate responsibility in the global community. Its core belief is that corporate success and the healthy development of society are inextricably related. In obtaining economic benefits, enterprises should repay society through various channels. "Corporate citizenship" essentially comprises corporate social responsibilities and corporate ethical responsibilities.

Corporate social responsibilities refer mainly to the responsibilities to be undertaken as required by the law, such as tax payment, providing job opportunities for society lawfully, providing commodities and services for the market, complementing the Government's macroscopic policies, protecting the rights and interests of employees, complying with the order of competition in the market, and so on. These responsibilities are mandatory in nature.

Corporate ethical responsibilities refer mainly to support for philanthropic events, welfare, charity, and community building in society. These responsibilities are voluntary and characterized by a sense of self-awareness.

The objective of corporate citizenship is to identify the point of equilibrium between corporate development and social harmony in order to achieve a mutually-beneficial and win-win situation. There is growing concern across the world for corporate citizenship building.

As well as the 10 principles for corporate governance as set out in the United Nations Global Compact, corporate citizenship, according to the World Economic Forum, should be defined to comprise four aspects, namely good corporate governance and ethical values, the responsibility of enterprises towards human beings, the responsibility of enterprises towards the environment, and the contribution of enterprises to social development in the wide sense.

President, according to the definition of corporate citizenship given by Boston College in the United States, corporate citizenship refers to "a model of company behaviour integrating basic social values with daily business practices, operation and policy. A corporate citizen considers corporate success and the health and welfare of society to be inextricably linked. For this reason, full consideration will be given to the impact of enterprises on all stakeholders, including employees, clients, communities, suppliers and the natural environment."

Archie B CARROLL, a renowned management expert in the United States, put corporate stakeholders into eight categories, namely owners, clients, employees, the surrounding community, competitive rivals, suppliers, radical organizations in society and members of the public. He also suggests that the social responsibility assumed by enterprises towards these stakeholders can be manifested in the form of a "Pyramid of Corporate Social Responsibility" comprising economic, legal, ethical and philanthropic responsibilities, with economic responsibilities being the most fundamental of all responsibilities. The next level is legal responsibilities — all enterprises must abide by the law, as law is a social set of rules for judging whether or not certain behaviour is acceptable. The next level is ethical responsibilities — enterprises are obligated to treat stakeholders in a right, impartial and fair manner and must completely or at least try to avoid doing harm to them. The lowest level is philanthropic responsibilities — enterprises must be good corporate citizens that will contribute

their fortune and manpower to society and upgrade the quality of living of human beings. CARROLL emphasizes specifically that these four social responsibilities form an integrated entity and none of them can be neglected.

President, whenever the issue of corporate social responsibility is raised for discussion, many people will think of The Link as it is now the largest owner of shopping arcades and car parks in public housing estates in Hong Kong. The roles played by The Link and small business operators precisely reflect the relations between owners and consumers, as described by CARROLL.

Under the hammering of the financial tsunami, the Housing Department (HD) launched initiatives last year to rescue small business operators in the shopping arcades of the 19 housing estates managed by the HD by taking the lead to grant a one-month rent remission. However, The Link has not only failed to follow the Housing Authority in taking rent remission or reduction measures, it has even raised rents substantially against the market trend during the economic downturn. The small business operators in the shopping arcades of public housing estates are very often self-employed, which means that they are not only employers, but also employees. The Link's crazy rent increase has forced many small operators to wind up their businesses, as if The Link has indirectly laid off many people. Its operational practice has also continually pushed up consumer prices, affecting the daily lives of more than 600 000 grass-roots people.

President, we can find from the website of The Link that the so-called philanthropic events organized by it merely serve window-dressing purposes. They are merely intended as a public-relations response to the public with regard to the inadequate effort made by The Link in fulfilling its social responsibility. Obviously, The Link has failed to treat the stakeholders in a right, impartial and fair manner. Neither can it fulfil the ethical responsibility, as described by CARROLL. Furthermore, The Link has never made any contribution, in the wider sense, to the development of Hong Kong society. Neither can it live up to the expression "corporate citizenship", as defined by the World Economic Forum.

President, a supply chain partnership was already established among the grassroots, small business operators and owners a long time ago. However, after the taking over of the shopping arcades and car parks in public housing estates by The Link, the partnership was completely destroyed by The Link's operational policy. I hope the Government can cease looking on with folded arms. It

should actively look for ways to urge The Link to fulfil its social responsibility and, when necessary, consider buying back The Link. Only in this way can the overall interest of society be protected.

President, I so submit.

MRS REGINA IP (in Cantonese): President, to start with, I would like to express my sincere gratitude to Mr CHAN Kam-lam for proposing the motion today. Although I have no idea if the proposing of the nine amendments to the motion is unprecedented, I believe something like this will be repeated in the future. Evidently, the issue of CSR is a cause of concern to many Members, the general public and various sectors of the community.

First of all, I have to clarify that although I have told Mr CHAN that I support his motion, the enterprises which are obligated to fulfil CSR, according to our opinion, are major enterprises, not small and medium enterprises (SMEs) because, firstly, they are very small in scale; and secondly, they are already in great distress in the face of the financial tsunami. For the time being, it is probably impractical to require SMEs to bear CSR.

As for major enterprises, especially listed companies, I very much agree that they should bear CSR. Just now, Mr Alan LEONG provided a lot of information concerning what CSR means. I would like to introduce to Honourable colleagues a lengthy featured article in the January 2008 issue of the *Economist* on CSR. Its theme, especially its caption, is that CSR is now seen as mainstream. Although not many companies are doing a proper job in fulfilling their CSR, those who manage to do so would find that fulfilling CSR is actually good for business. This is why the caption of this article reads "Just Good Business".

So, what is CSR? CSR is not simply about doing charity, making donations for a better image. According to the article, different watchdogs have drawn up different indicators. For instance, a watchdog named Global Reporting Initiative, which is based in Amsterdam, has proposed up to 79 indicators. In my opinion, enterprises can hardly meet all the requirements if there are too many indicators. Nevertheless, this article has also proposed some indicators, and I will list only about 10 of them, which warrant the attention of

enterprises in Hong Kong, especially major or listed companies. These indicators include: protecting the environment; manufacturing safe products; providing employees with retirement and medical benefits; manufacturing products within the purchasing power of the public; compliance with human rights standards; providing a favourable environment in workplaces; refraining from effecting out-sourcing and layoffs indiscriminately; protecting privacy and information security; employing ethical means to produce, publicize and promote products; and paying attention to ensure that the pay of administrative personnel is not too high. It is worthy for major enterprises in Hong Kong to make reference to all these indicators.

However, I am particularly concerned about public enterprises. What I mean is those non-government public bodies within the government structure, with some of them being statutory bodies and some being non-statutory bodies. When these public bodies were established initially, their objective was to provide services required by the public, only that it was considered by the Government at that time that these public bodies, if established independently of the Government in the form of a company or commission, could function more effectively and enhance efficiency. This was why the MTR Corporation Limited (MTRCL) (地鐵公司) came into being. Later, the MTR Corporation Limited (MTRCL) (港鐵公司) was established with the merger of the MTR Corporation Limited (MTRCL) (地鐵公司) and the Kowloon-Canton Railway Corporation (KCRC). The Housing Authority, as mentioned by a number of colleagues just now, was originally set up to provide residents with essential facilities in housing estates. I find this type of public services looking back, the listing of The Link REIT (The Link) is definitely a mistake because the essential facilities are now managed by a listed company which cares only about making profits. Moreover, the majority shareholder of The Link, a listed company, is even a hedge fund. The company can even be described as employing extremist practices merely for the sake of seeking exorbitant profits. Not only has it resorted to frantic rent increases, it has even, from my experience of handling some trivial matters, flatly refused to lease vacant offices to residents' associations in housing estates at lower prices, as everything must be determined according to market prices. The Link is really completely reluctant to fulfil its social responsibility.

As the majority shareholder of the MTRCL, the Government decided to sell it it has thus become a listed company as well as a freak. On the one hand, the MTRCL provides the public with essential transport services, while the

other, its management will definitely seek to make profits after listing. This is probably because their pay is pegged to the company's profits. This explains why the MTRCL has often been found to be behaving most unreasonably, even in handling trivial matters, and this is very disappointing indeed. For instance, the MTRCL is adamantly opposed to the year-long call by people with disabilities for transport concessions. When I mentioned this to the senior staff of the MTRCL, they responded that the Government had already provided benefits to people with disabilities, which means that no more benefits would be offered as benefits had already been provided. Let me cite the transport concessions offered to the elderly, used to be offered on Sundays and public holidays, as another example. Now the MTRCL is trying to spend as little as possible by offering the concessions on public holidays and Wednesdays. I do not know why the MTRCL would think that the elderly like going out on Wednesdays. Does it believe the elderly enjoy coming to the Legislative Council to listen to our speeches? I once ran into an elderly person in Central on a public holiday. He was very pleased when he saw me, saying he often saw me on television and he had now finally seen me in flesh. He also told me he was taking advantage of the transport concession to travel to Central as it was a public holiday, or else he would not have spent the money. It is really extremely disappointing that the MTRCL could have been so mean.

It is even more annoying that although some public bodies, including those financed wholly by the Government previously and those which are still wholly owned by the Government, are operating like a company, they have departed from the legislative intent of their establishment by competing with the private sector for profits and employing extremist practices in seeking to make profits. As stated by Mr Tommy CHEUNG earlier in the meeting, the legislative intent of the establishment of the Hong Kong Trade Development Council (HKTDC), a statutory body, is to promote trade, especially export, in Hong Kong. One of the objectives of its legislative intent is, let me read it out, "to make such recommendations to the Government as it sees fit in relation to any measures which it considers would achieve an increase in Hong Kong's trade". Apart from fattening itself, the HKTDC should have the responsibility and mission not only the mission. It can be said that it has the statutory obligation to give advice and suggestions to the SAR Government on how trade, including the convention and exhibition industry of course, can be improved. As we all know, there are currently two major exhibition centres in Hong Kong. In addition to the Hong Kong Convention and Exhibition Centre (HKCEC) managed by the HKTDC, there is the AsiaWorld-Expo (Expo) at the airport. Subsequent to the

expansion of the atrium of the HKCEC, the business of the Expo is badly hit. According to people in the trade, should the HKTDC fight for a further Phase III expansion, not only will a very important leisure facility in Wan Chai, that is, the only open, turf track and field court in the district, be taken away, it will also render the Expo, which is located at the airport, impossible to develop its business. Actually, this exhibition venue, which is located at the airport, has its merits. Despite its relatively remote location, it has only one storey. As a result, many enterprises which could not be promoted in Hong Kong in the past, such as those in the aviation industry, can now stage exhibitions in Hong Kong. This is why the HKTDC's practice of departing from its legislative intent and competing with the private sector for profits should be condemned.

Another public body which warrants condemnation is the Hong Kong Mortgage Corporation Limited (HKMC). Recently, a large number of financial experts, including Mr Tony LATTER, the former Deputy Chief Executive of the Hong Kong Monetary Authority, Mr Leland SUN, the former Chief Operating Officer of the HKMC, the Hong Kong General Chamber of Commerce, Mr Tom HOLLAND, Mr Jake van der KAMP and others, pointed out in newspapers that the HKMC, wholly owned by the Government, is capable of obtaining capital in the territory and lend it to people outside the territory, such as people in Shenzhen, to purchase properties or make investments outside the territory, such as purchasing Korean bonds, thereby causing the Government to suffer heavy losses. This is a case of a public body departing from the original intent of its establishment. It really warrants our concern. This is why I consider that these factors should be taken into consideration in determining the remunerations of its administrative staff.

MR RONNY TONG (in Cantonese): This week can be called the "conscience week". Last week, Dr Margaret NG asked a question on the Chief Executive's conscience. Today in this Council, we also discuss the responsibility and conscience of the business sector in Hong Kong.

President, someone says that to discuss conscience with the business sector is just like asking a tiger for its hide, tantamount to asking them to act against their own interests. Some people even say that conscience actually has no place in capitalism. As the Chief Executive remarked last week, only if there is money, conscience can also be bought out.

President, I definitely do not believe nor hope that this is the truth of this world. However, amid the financial tsunami recently, some organizations in Hong Kong which, in the past, claimed to uphold corporate social responsibility (CSR) and care about society have done something which angers the community greatly. Take HSBC as an example. If one browses its website, on the page about its CSR, one can see it emphasize that "employees are the most valuable asset of an enterprise". However, under the attack of the financial tsunami, HSBC has removed a large proportion of its most valuable asset. Take PCCW as another example. On the one hand, it has just received the so-called conscientious enterprise award from the Hong Kong Council of Social Service (HKCSS). On the other hand, while some of its staff are being laid off, its minority shareholders claimed that it was making use of a loophole in the law on privatization to reap off the minority shareholders. In fact, different cases are showing every day that during the peaceful days in Hong Kong, CSR has become a project to beautify the image of big and capable enterprises. During an economic downturn, the so-called CSR is only lip-service. President, my purpose of moving an amendment to Mr CHAN Kam-lam's motion today is actually not to oppose or disagree with Mr CHAN's views. I only hope to provide some "flesh", some "substance" or some substantial proposals to the framework provided by him.

President, there are no criteria internationally on the so-called CSR. In 2005, 191 member countries of the United Nations endorsed the United Nations Global Compact (the Global Compact), which provides a framework on the operation of enterprises of the globe, so that different stakeholders like enterprises, labour groups and governments can form a network. Within this framework, different stakeholders have to undertake to carry out different reforms of various scales in the enterprises, with a view to meeting the criteria set by the Global Compact. Each enterprise member also has to report in its annual report on the progress of its compliance with the Global Compact principles.

With reference to some existing conventions signed internationally, the Global Compact has laid down 10 principles covering four areas for the implementation of corporate responsibility. These 10 principles sound like cliché to us, but form a very clear yardstick to measure how Hong Kong enterprises are lagging far behind from international standard in terms of social responsibility. These four areas include human rights, labour standards, environment and anti-corruption. Under human rights, there are two principles which include: Businesses should support and respect the protection of

internationally proclaimed human rights, and make sure that they are not complicit in human rights abuses. According to these two principles, many Hong Kong enterprises with investment in the Mainland are unable to meet the standard. Under labour standards, principle 3 recognizes the right to collective bargaining of workers. This exactly hits the nail on the head that Hong Kong is now devoid of any legislation on the right to collective bargaining, and that workers are in the plight of having no means to bargain with employers for their own basic rights and benefits. Principle 6 requires the elimination of discrimination in employment and occupation. However, the proportion of Hong Kong enterprises employing people with disabilities is still very low, and the situation of age discrimination is even more serious. Under environment, the Global Compact requires businesses to adopt a proactive and precautionary approach, as well as to develop environmentally-friendly technologies to cope with the ever aggravating environmental challenges. Nevertheless, the blueprint on the green economy programme submitted earlier by the Civic Party to the Government, which proposes the promotion of environmentally-friendly industries and implementing environmentally-friendly procurement standards, has yet to be agreed by the Government.

President, I have to point out that although China is a signatory of this Global Compact, only three enterprises in Hong Kong have joined this Compact. Obviously, we do not see any promotion of this Compact by the SAR Government. Hence, many enterprises have extremely limited knowledge of this Compact.

Nonetheless, President, when speaking on social responsibility or conscience of enterprises, we should absolutely not neglect the responsibility and conscience of the SAR Government itself. President, the SAR Government has a constitutional obligation to show its conscience to society. If we apply the above-mentioned 10 principles to the Government's performance, we can see that the Government is actually violating every principle every day. Therefore, it is somewhat putting the cart before the horse if we only talk about the social conscience of enterprises but not the social conscience of the Government.

Apart from earnestly practicing what it advocates, what else can the Government do? In fact, if it really has to implement these 10 principles, the most effective way is to follow the example of the United Kingdom Government. Taking the initiative to amend the Companies Ordinance, the Government can lay down the minimum standard of social responsibility that employers of enterprises

should take up. In fact in this aspect, the United Kingdom is definitely the forerunner of the world. As early as 2000, the United Kingdom Government already set up a Ministry of Corporate Social Responsibility, specially tasked to promote CSR. In 2006, the United Kingdom Government even carried out a reform of the Companies Act, the largest of its kind in 150 years, to implement CSR in the four areas of human rights, labour, environmental protection and community development.

President, the Companies Act of the United Kingdom implements CSR mainly through two channels: First, it is the role of corporate directors. The Act requires that when fighting for the largest benefits for shareholders, corporate directors have to consider the consequences of any long-term decisions made by any directors, the interests of company employees, the needs of suppliers and consumers, as well as the impact of the company's operation on the community and the environment. The law requires enterprises to report to the Government the information on their influence on society, environment, relations with employees and community. The law will protect those enterprises which take the initiative to implement CSR but will punish those enterprises which fail to fulfill these responsibilities, with a view to enhancing the promotion of CSR. President, I have to emphasize that the practical experience of the United Kingdom has already proved that the promotion of CSR will not affect the operation of an enterprise or render the burden of an enterprise heavier. On the contrary, nowadays, when global consumers have higher and higher expectations of the enterprises, the implementation of a set of standards on CSR clearly stipulated by law will be conducive to enhancing the international image of local enterprises, and local enterprises will also be greatly benefitted in the promotion of business opportunities.

President, we are now conducting a comprehensive review and is rewriting the company law. I find that this is an appropriate moment to follow the practice of the United Kingdom Government by incorporating the most fundamental requirements and principles of CSR into the company law, so that all enterprise or companies in the SAR can have certain principles to abide by and attain this target through business operation.

President, in terms of both the international standard and law reform, the promotion of CSR development in Hong Kong is actually far behind the international trend. If we do not catch up immediately, not only will this be disadvantageous to the development of local society and environment, we may

also lose many business opportunities in the international market. President, I hereby urge the Government, while it is going to rewrite the Companies Ordinance, to study and discuss the legislation on CSR immediately, so that the enterprises of Hong Kong can catch up with the international standard.

President, insofar as the Global Compact that I mentioned earlier is concerned, we may not need to incorporate the whole lot into the company law immediately. However, we have to endorse its principles and the core values which are internationally recognized, and these principles should be written into the company law orderly and efficiently, so that Hong Kong enterprises will not feel humiliated again in the international arena by being criticized that they are oblivious to general social responsibility.

President, on behalf of the Civic Party have, I support all the amendments and the original motion. Thank you, President.

MR IP WAI-MING (in Cantonese): I think many colleagues have already mentioned CSR earlier. If we are given a simpler definition that CSR only refers to occasional donations by enterprises or their mobilization of staff to do voluntary work, I think this may not be acceptable to many colleagues in this Council or to the community at large.

A colleague just recalled the ceremony for presentation of Caring Company Awards by the Hong Kong Council of Social Service (HKCSS) early this year. PCCW and HSBC were among those elected as companies with the so-called corporate conscience. However, they are also the ones making large-scale layoffs despite gaining profits. In order to avoid being criticized by the community, some enterprises even effect layoffs covertly. In some examples, all staff of a division of a bank suddenly submitted resignations for personal reasons. We find it unbelievable indeed

The most recent example is the Television Broadcasts Limited which announced today that it would lay off 100 staff. The company claimed that this is a process of restructuring, adding that it has new developments, these staff being laid off will be given priority in the new recruitment exercise. I find it weird. If the company concerned is an enterprise with social responsibility, why does it not deploy these employees to the newly developed departments, but to dismiss them and ask them to reapply for the new positions and tell them that

they will be given priority? Due to these remarks, we cannot help but doubt that the company concerned may want to disrupt or discontinue their length of service with the company so that it can re-employ them by offering lower salaries. I believe the organization concerned needs to give an account to the public. Otherwise, we do not think that this enterprise has fulfilled its CSR.

As far as CSR is concerned, many colleagues have mentioned a lot of principles earlier and we agree with them all. However, I think the remark made during a meeting held by the World Business Council for Sustainable Development in 1998 is comparatively more easy to understand: CSR is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large.

There are actually three elements here: behaving ethically, improving the development of the workforce, their families, local community and society, and this development is also contributing to the economy. In clearer terms, this is in line with our usual saying of repaying one's gain from society back to society.

In the 1999 World Economic Forum, Mr ANNAN, the United Nations Secretary General, first mentioned the so-called United Nations Global Compact (the Global Compact), which was also mentioned by a colleague earlier. However, we find that in 2005, 50 enterprises in the Mainland were already enrolled as members of the Global Compact, and 700 enterprises in Taiwan have also signed the Global Compact, 30% of which are small and medium enterprises (SMEs). But in Hong Kong, only a limited few like the MTR Corporation Limited (MTRCL) and a few international enterprises have signed the Global Compact. Even though the MTRCL has signed the Global Compact, it has just been criticized by colleagues that it is still not doing enough in fulfilling the Global Compact, which is disappointing to us.

In our opinion, the most important point is that the Government is duty-bound to promote CSR. The Government should play a main role in promoting CSR. Nonetheless, we find that with the outsourcing and privatization measures in particular, the Government is exactly going against CSR.

We notice that since the Government started outsourcing its services, there has been a serious problem of exploitation in the process. Many workers are forced to accept low wages and long working hours. Their wages are just too

meagre to support their living while their jobs are not secure either. The Hong Kong Federation of Trade Unions and its affiliated unions have dealt with a lot of such cases. After the original service contractor has lost in a new tender, the workers lose their jobs and are forced to accept even a lower level of wages. In March this year, we dealt with a case relating to the change of cleaning contractor by the Food and Environmental Hygiene Department, and this situation was fully reflected.

The emergence of this situation is due to excessive emphasis of the Government on offering the contract to the lowest bidder when outsourcing its services, without regard to the standard of labour protection. I have to add here that Mr Tommy CHEUNG's views about my amendment actually fall foul of over generalization. We think that the main criterion is labour protection, which has to be considered by the Government and other organizations when offering contracts on outsourced services. We are not saying that other factors, like quality of service, should not be considered. We think that when the Government disregards the criterion of labour protection when offering contracts on outsourced services and takes the lead in exploiting workers, other organizations will follow suit and the workers will have to suffer even more miserable bullying.

Therefore, we suggest that when the Government outsources services, apart from setting a minimum wage and standard working hours, it also has to introduce more labour terms in order to protect the interests of workers. It is because if a contractor obtains the service contract with the lowest bid, the cost will only be finally transferred to the workers so that it can reap the greatest profits.

One of my suggestions in the amendment is requiring enterprises to publish annual reports on CSR. I know some people criticize this suggestion, saying that not all enterprises can meet this requirement and thus legislation would be a little unpractical. However, there are already similar requirements and legislation in overseas countries. The choice of word in my amendment is "considering". We think that in the course of such examination, we can reconsider which kinds of enterprises can be exempted. We focus particularly more on some large-scale enterprises as we require them to take up more responsibility in this respect. Hence, I do not see any reasonable grounds from those who put forward such an argument.

President, we think we can learn from the experience of western countries. We can require enterprises to publish annual reports on CSR by way of legislation and consider developing some so-called social responsibility-related investments. In fact, the Governments of the United Kingdom, the United States, Germany and Switzerland have already written into legislation the requirement that in their annual reports, listed companies have to give an account to shareholders and the community on their effectiveness in promoting CSR. We think this can be taken as reference. In our opinion, CSR is not a kind of empty talk, but should be a kind of corporate culture. We should strive to create corporate social culture and should not be complacent with merely some donations and voluntary work as before.

For corporate social culture, we hope that it is people oriented and has a higher degree of transparency in terms of decision-making. It should also target at Hong Kong. The objective of enterprises should dovetail with the social objective of the development of Hong Kong. Enterprises should promote the development of society together with Hong Kong people, and should not take profit-making as their major objective.

We hope that CSR can be fully developed in Hong Kong in the future. As we mentioned earlier, concerning our suggestion to introduce "Enlightened Shareholder Value" from the United Kingdom, the consultation last year was already vetoed by the Government, and we feel disappointed about this. It is our hope that future enterprises can better fulfill, promote, create and establish the CSR culture.

MR LEUNG KWOK-HUNG (in Cantonese): President, I just heard from Mr IP Wai-ming say that some enterprises in the Mainland have signed a pact. Today, we should discuss Hong Kong affairs. However, the present trend in Hong Kong is to praise the Mainland before criticizing the Hong Kong Government. This is a weird trend. In fact, under the influence of the financial tsunami, in the Mainland, although the Central Government — namely the Government of the People's Republic of China (PRC) — has earmarked RMB 4,000 billion yuan to save the market, no one actually knows whether this sum can be fully used for the purpose. Now that the stock prices in Hong Kong are moving up greatly, I doubt at least RMB 1,400 billion yuan from this RMB 4,000 billion yuan is being transferred to Hong Kong to serve the purpose. Of course, in the state system of

the PRC, enterprises must have social responsibility, and thus it is understood and not worth mentioning. At present, there are miserable situations like workers suffering from pay cuts and a lot of workers having to return to their hometowns. I am duty-bound to say for the distressful worker and working class in the Mainland that they are actually facing a collapsing system which should require the fulfillment of social responsibility originally.

Coming back to Hong Kong, this Council has approved the listing of The Link REIT (The Link) and approved the merger of the MTR Corporation Limited (MTRCL) and the Kowloon Canton Railing Corporation (KCRC) so that the MTRCL can turn into the largest enterprise. When we were approving these items, this Council clearly knew that this Council could not impose any substantial restrictions on them. In other words, in the course of legislation, we have no means to require them to fulfil their social responsibility through legislation. However, in this Council where the butt is directing the brain — in Room 003 downstairs, there was a test earlier of some stationery, equipment and chairs for the purpose of ascertaining whether we could sit comfortably — buddy, Members in this Council are using our brains and have no reason to use our butts in meetings. However, I now understand that in here, the butt is really directing the brain.

We speak eloquently, excitedly and indignantly today. When Members criticized the enterprises for not fulfilling their social responsibility, have they ever thought that on the level of the Legislative Council, they have ever fulfilled their responsibility as Members of the Legislative Council — the responsibility is to stop the Government from tossing public assets into private hands, as in the case of The Link? The other example is that the Government privatized part of the MTRCL — the blood and sweat of Hong Kong people — and said loudly that it was a private enterprise. It later said that it had to let this private enterprise operate and, without any regard to public interests, even let it merge with the KCRC and acquire the latter's assets. When we criticize others for not fulfilling their responsibility, what about our responsibility?

The League of Social Democrats (LSD) has always been criticized as trying to please the public with claptrap. This is a very simple example. In The Link incident, we have been rebuked. Some people said that they had to kill me and chop off my evil hand. Who will do that? A lot of people in this Chamber will do that. The violent gatherings that I have experienced here are

far more complicated than I said or described. It was here, it was at the entrance of this car park that a few thousand people said that they had to kill me, because I opposed the listing of The Link and this hindered them from making great profits. The affiliated unions of the FTU have a part to play, and you do not need to deny. The DAB also has a part to play. How are we pleasing the public with claptrap? We have been bearing tremendous pressure and can only vindicate for ourselves today. Therefore, we cannot act too much like Donald TSANG, right? The meaning of not acting too much like Donald TSANG is not burying your own conscience. You cannot do that.

Members, what am I talking about? When we ask for legislation so that all employers, including all those who employ workers, should respect labour rights and interests, the resistance that this Council meets is unprecedentedly great. Even though the right to collective bargaining had been secured then, once Uncle TUNG assumed the office, he partnered with 60 Members whom he handpicked to repeal the right to collective bargaining in this Chamber. And even the provisions to the effect that joining trade unions would not be subject to prejudice and unreasonable dismissal were also repealed. Members, all these happened in this Chamber and it was the same group of people. I demonstrated two times up on the public gallery. I recall that Dr Margaret NG defended for me. It seems not, it was my lawyer. I dismissed him as I had to defend myself — this is what she reminded me. This is recorded in history, right? The setting of minimum wage started off only with a minority support which now turns to a majority support. How can this be achieved?

Members, there are other items under corporate social responsibility (CSR). Our system is that public utilities are free to engage in monopolization. Our system is that public utilities can exploit the public because the Government does not make any investment. What is our system? Our system is that banks are above all else. Look at the victims of Lehman Brothers and ELN. Joseph YAM can make irresponsible remarks. His remunerations are decided by a consultation committee composed of bankers, and he does not have a tenure of office. Our system is rotten to the core. Members, CSR does not mean there are social enterprises. CSR means that enterprises need to take up responsibility, while social enterprises is another matter. When a society needs to set up social enterprises, it in fact recognizes that the enterprises are unable to fulfill their social responsibility.

Let us first discuss this today. Once the Government has outsourced its services, it thinks that such services are out of its scope of supervision. When Antony LEUNG appealed to us here to "trim" ourselves, had he not got a round of applause in this Chamber just the same? Even when he was denounced for his skipping a step to buy a vehicle at a lower price, did he not say that it was a political conspiracy? Members, we really have a lot to "thank" him. The comprehensive measures of briefing out services and privatizing public assets today were proposed by him, as he had to cut costs. The meaning of cutting cost is to be irresponsible to the employees, irresponsible to the lower strata of society, and thus not fulfilling social responsibility. Why should the Government continue to do this? Insofar as outsourcing services is concerned, the Government is simply turning a blind eye to it.

Members, the LSD has to make the point clear. No matter social enterprises are being set up or not, the funding must come from those who can make money — this is also the principle for progressive profits tax. To require them to fulfill social responsibility, there must be a legal basis to make it impossible for them not to fulfill the responsibility. If you are against this but continue to talk about social responsibility, then you are a fool. Without minimum wage, without maximum working hours, without the law to severely punish those employers who dismiss employees unreasonably, it is useless to say anything. If the right to collective bargaining is not restored, it is also useless to say anything. Without a fair competition law, it is useless to talk about morality and conscience of social enterprises or any enterprise for that matter. I urge those who raise a loud cry here to really be practical and have these few things done. Otherwise, this will naturally become a laughing stock in history.

MR LEE CHEUK-YAN (in Cantonese): President, first of all, I have to talk about the origin of CSR, as many people have some misunderstandings about the term of CSR. This term sounds very pleasant, as enterprises are required to fulfill social responsibility. However, insofar as the whole issue is concerned, I need to point out the stance of the Hong Kong Confederation of Trade Unions (CTU) very clearly from the outset. We think that CSR is hypocritical, totally a tactic of public relations of enterprises. They do not genuinely need to fulfill social responsibility.

What are tactics of public relations? How are they created? When an enterprise — especially the large-scale enterprises in foreign countries — wants

to sell its products, it will think of the response of consumers. Members do know that for a period of time, university students in the United States thought that all brand name enterprises such as NIKE and ADIDAS were exploiting workers. They thus launched a movement to boycott their products. In order to respond to the aspirations of consumers, the enterprises hypocritically carried out the so-called CSR. This actually is a tactic of public relations.

Subsequently, what came out of such enterprises? They began to carry out such public relations activities. For instance, NIKE began to employ a human rights officer to be responsible for social audit. Auditors were sent to the factories in the Mainland and Vietnam to inspect the labour standard there. No sooner had these policies been implemented, the factory owners in China — especially the Hong Kong factory owners who were very smart — already thought up some counter-measures.

Later on, some people found out that these factories kept two sets of accounting books. The one for inspection was faked, while the other one which had recorded the actual overtime work was real. People were only playing a cat and mouse game. However, this actually was meaningless. The enterprise did not really care about the workers but was only concerned about the sales of its products. It did this only to avoid criticisms. To the workers, it was originally a nice thing that the enterprise cared about them. But they found out subsequently that their boss was tricky in taking out a fake accounting book for inspection. Therefore, we need to understand the background of CSR in general. It actually is a tactic of public relations of enterprises more than their fulfillment of social responsibility in real term.

President, what is our greatest worry? We, including the Government, have been talking about CSR. Mr Henry TANG has appealed to enterprises not to lay off staff. In making so many pleasant remarks, the Government in fact only wants to evade one thing, and that is, to evade the responsibility of the Government to legislate on this. If the Government really thinks that enterprises should fulfill social responsibility, it should not appeal to them to fulfill social responsibility, but should instead legislate and stipulate the standards clearly for enterprises to follow. In this way they will breach the law if they do not follow. It is as simple as that.

Nevertheless, the Government has been refraining from fulfilling its own responsibility of enacting legislation. Instead, it only makes verbal appeals and

plays the show together with enterprises. It has even said, "I have already asked enterprises to fulfill social responsibility. The Government has already fulfilled its own responsibility. If you do not fulfill social responsibility, it only shows how unbecoming you are." They are merely playing a hypocritical game of public relations. I think I have to spell this out clearly. That is not what we want to see. But we notice that in promoting CSR, the Government has not fulfilled its responsibility of enacting legislation on this.

Of course, if consumers are to launch some movements, for example, unless McDonald's raise its hourly wages to \$25 or \$30, otherwise all Hong Kong people will refuse to patronize any McDonald's, then the situation will be different. This can really force enterprises to fulfill their social responsibility. The CTU has recently conducted a survey. It was found that the enterprise offering the lowest wages is Kentucky Fried Chicken (KFC), with an hourly wage at \$17. If all workers in Hong Kong refuse to buy any fried chicken from KFC so that it immediately raises the hourly rate, it is thus forced to fulfill its social responsibility. Since no legislation has been made on the minimum wage by the Government, an enterprise needs not pay heed to the appeal from the Government. The public relations work that the enterprise carries out afterwards is actually simply for relieving public hostility towards it. For instance, when we always think that McDonald's provides unhealthy food, offers very low wages and exploits workers, it organizes some public relations activities like Ronald McDonald House Charities so as to fulfill its co-called CSR. In fact, they are only some hypocritical moves to whitewash its sin.

There is a very obvious example today. When the Government is appealing to enterprises not to lay off staff — the Secretary also knows about this case — the Television Broadcasts Limited (TVB) has announced another layoff, and this is the third layoff. Under the financial tsunami, if there is a competition on layoffs, there will emerge two champions, one is HSBC and the other is TVB. Both enterprises have effected three layoffs despite making great profits. There is no need to say about HSBC as its annual profits amount to \$100 billion. Last year, the profits of TVB amounted to \$1 billion. Today, I heard Mr Stephen CHAN say, "The situation is not promising. Our profits may drop 16%." Does it have to break the rice bowls of a few hundred people due to the drop of profits by 16%? That is how it looks at its social responsibility. Mr Stephen CHAN actually did a very good job last year by producing a television programme titled "The Story of a Million People", and people were impressed that TVB was caring

about the poor. We were really moved at that time. But it is surprising that TVB is now creating poverty by pushing this group of people into the same plight of that "million people" — the number now is not 100 million but 1 000 500, as 500 poor people have been created by TVB. Mr Stephen CHAN is the host of a television programme "Be My Guest" and he interviews the guest in a dinner setting. However, he is now breaking people's rice bowls.

President, from this incident, we can see that TVB, a major enterprise in Hong Kong which is capable of earning profits, still lays off its staff under the financial tsunami. This really worries me. When a profitable enterprise still has to lay off its staff, what could those enterprises not making any profits do? Do they thus have a more convincing excuse for retrenchment? Therefore, it is most disgusting to see enterprises seize the chance of the financial tsunami to exploit their staff.

The second enterprise that I have to criticize is the MTR Corporation Limited (MTRCL). As some Members already mentioned, how is it possible for the MTRCL to take so many years to discuss the introduction of half-price concessions to persons with disabilities? Every time when it came to the Legislative Council — I was the Chairman of that Subcommittee — it would only say, "Do not talk to us about social responsibility. Providing half-price concessions to persons with disabilities is the responsibility of the Government." However, it has forgotten that the Government is its major shareholder. I do not understand why they are passing the buck to each other. Today, the Secretary is still unable to make the MTRCL fulfill this CSR. Thus, I say that CSR is hypocritical, as it is created passively. If the Government is to promote CSR, it should fulfill its responsibility by legislating on it.

Finally, I have to mention that my amendment today asks the Government to fulfil its responsibility by enacting a law on the right to collective bargaining. The Government asks enterprises not to lay off staff, not to cut the salaries and benefits of their staff, appealing to them. However, when the Government itself has the right to legislate, it does not make use of that right but only to pay lip-service and make some unpractical moves. Then how useful can that be? We submitted a bill on the right to collective bargaining in 1997, but it was repealed afterwards. After all these years and even today, trade unions still have no right to collective bargaining.

The Government has also violated its international responsibility. International Labour Conventions No. 87 and No. 98 clearly state that the Government has the responsibility to promote the right to collective bargaining. The Secretary may say that collective bargaining should be voluntary basis. Of course, bargaining should be voluntary. However, setting up a mechanism to recognize trade unions as the target of bargaining is the recommendation clearly made by the Committee on Freedom of Association of the International Labour Organization (ILO) to the Government. It recommends the Government to legislate and set up a mechanism to recognize the status of trade unions so that trade unions can carry out collective bargaining with employers in an honest and sincere manner. This is a very clear recommendation made by the ILO to the Government. If the Secretary says that they have already done so but the ILO keeps on saying that you have not, then do not say that you have done it anymore. Will you please shut up. If you really care about labour and really hope to balance the labour relations so that society will not be tilted only to the consortia, big enterprises and persons with power, the only way for the Government is to fulfill its responsibility to legislate on the right to collective bargaining.

President, lastly, I have to mention the Financial Services and the Treasury Bureau. The Government itself is an employer. It should monitor the outsourcing situation. Basically, it should not outsource its services, as outsourcing actually creates exploitation, low wages and long working hours. I only want to mention a very minor case and I believe the Secretary should be able to handle it. I have recently received a complaint concerning the requirement on firemen to work for 12 hours daily. I thought the Government has already undertaken that the daily working hours is eight hours. But the Fire Services Department told me it was 12 hours. I hope that the Government can follow up this case.

Thank you, President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr CHAN Kam-lam for moving this motion today, and also Mr WONG Sing-chi, Mr Tommy CHEUNG, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mrs Regina IP, Mr Ronny TONG, Mr IP Wai-ming, Mr LEUNG Kwok-hung and Mr LEE Cheuk-yan, nine Members in total, for moving amendments to this motion.

Nine Members have moved amendments to this motion, and this illustrates that the Legislative Council is concerned about this issue. In fact, when the economic development of a region is mature, enterprises of whatever sizes should fulfill their social responsibility. In other words, they should fully consider the impact of their business policy decisions and operation on society, the environment, consumers, employees and other people concerned. They also have to strike a reasonable balance between business development and gaining profits and compliance with the ethical standard recognized by the community. In brief, not only should they be responsible to the shareholders, they should also be responsible to the stakeholders. The fulfillment of social responsibility helps to enhance an enterprise's reputation, and also brings business return, which includes building up a quality brand, boosting the morale of employees and attracting people with ability to join the enterprise. In the long term, this definitely is an investment which can yield an impressive return.

In the area of employment, one important element under corporate social responsibility (CSR) is to carry out "employee-based" best personnel management practices, which include family-friendly employment practices. Through channels like organizing diversified publicity and promotion activities, including arranging talks, seminars and roving exhibitions, publishing different publications and making use of the mass media, the Labour Department (LD) has been publicizing the labour laws and promoting best personnel management practices, with a view to helping create an environment for enterprises to fulfil their social responsibility.

Besides, through the network of 18 Human Resources Managers' Clubs under the LD which covers different trades and industries and the human resources practitioners in individual organizations, the LD will, from time to time, discuss CSR and the related issues. It also actively encourages them to implement best personnel management practices in the workplace, maintain effective communication with employees and consult them on employment matters.

At the same time, the LD has set up tripartite committees among nine industries to liaise with the representatives of trade associations and trade unions, professional groups and major employers in the industries. The nine industries include the construction industry, catering industry, property management industry, hotel and tourism industry, printing industry, film industry, logistics

industry, cement and concrete industry as well as retail industry. Through regular meetings, these tripartite committees discuss issues of common concern in the respective industries, including issues related to the implementation of best personnel management practices, for example, workplace co-operation and how to promote harmonious labour relations in the prevailing economic downturn.

I believe Members will agree that employees are the most precious asset of an institution, and the LD has all along been appealing to employers not to lay off staff so easily. While considering whether or not to adopt any pay cut or layoff measure, the management should consider whether such a move will lead to confrontation between the employer and the employees. It should also pay attention to the negative impact on the morale of employees, goodwill, image of the enterprise, customer support, and so on. Employers should first consider other measures to increase income and reduce expenditure. Even when measures affecting employees' rights and interests are inevitably carried out, layoff should also be the last resort. After all, employers should reduce redundant manpower through natural wastage or voluntary departure.

In order to protect the rights and interests of employees, the LD has been encouraging enterprises to engage in effective communication with employees on employment issues. As a neutral mediator, the LD is dedicated to assisting both parties in resolving the labour dispute and achieving a compromise at the end. Among the labour disputes and cases of claims handled through the LD in recent years, over 70% of them could be amicably resolved through reconciliation.

From the experience of the LD, many labour disputes arose from inadequate communication between employers and employees and mutual suspicion which then lead to unnecessary misunderstandings. The LD advises enterprises to fulfil the responsibility. If an enterprise has to make any decisions affecting employees' remunerations and benefits, it should honestly discuss with the employees, particularly those being affected, or with their representatives, and explain to them the difficulties that the company is facing and the reasons concerned. Employers and employees are actually closely bound and reciprocal partners, if only they can understand and accommodate each other, consider each other's positions and appreciate each other's difficulties, I believe most labour problems can be satisfactorily resolved.

After careful consideration, if an enterprise still thinks that a pay cut or retrenchment is the only way, it should honestly discuss with its employees. It needs to clearly explain the details for calculating the compensation for termination of contract and try its best to assist those employees in finding new jobs. This can reduce the impact on the employees concerned and their families to the minimum.

I understand that there are cases of layoffs and pay cuts due to the economic downturn recently, and the labour sector thus thinks that the establishment of a collective bargaining mechanism is helpful to solving the problem. However, I want to point out that the proposal of collective bargaining on a mandatory basis has yet to obtain a consensus in society, and the views of people from various sectors vary.

The SAR Government has long been putting great efforts in promoting collective negotiation on a voluntary basis. We think that direct bargaining between employers and employees on a voluntary basis, complemented by the reconciliation services provided by the Labour Department is the best way to maintain harmonious labour relations.

At present, at three levels, namely central, industry and enterprise levels, the LD encourages and promotes the development of a voluntary negotiation mechanism by employers and employees. At the central level, we all know that the Labour Advisory Board (LAB) gives advice to the Government on the formulation of labour policies and enactment of legislation. Members of the LAB include representatives of the Government, employers and employees. At the industry level, the LD is also active in forming tripartite committees for individual trades and industries, with members including representatives of trade unions, employers' associations and the LD. The purpose is to discuss the labour relations of the respective trades and industries and issues of common concern. At the enterprise level, we also encourage enterprises to implement best human resources management practices and maintain effective communication with employees and trade unions on employment affairs. The LD also organizes promotional activities for employers, employees and human resources practitioners on a regular basis, with a view to promoting voluntary and direct negotiation in the workplace.

I have to point out that collective bargaining has to be conducted by employers and employees on a voluntary basis in order to be successful and meaningful. Even if we legislate to mandate collective bargaining between employers and employees, there is no guarantee that an agreement acceptable to both parties can be reached. Moreover, Hong Kong is unique in the sense that 98% of the enterprises, that is, 260 000 enterprises are small and medium enterprises (SMEs), and among them, 94% of the enterprises employ less than 20 employees each. Under the circumstances, whether collective bargaining can fully exercise its functions is open to question indeed.

I would like to reiterate that the policy of the SAR Government is to formulate legislative proposals to improve the rights and benefits of employees under the principles of dovetailing with the social and economic development of Hong Kong as well as of striking a balance between the interests of employers and the interests of employees. The economic system of Hong Kong is externally oriented. In the environment of global economic integration, enterprises always have to face competition from countries all over the world. Legislation on collective bargaining may undermine the market force in drawing up employment conditions by employers and employees. As a consequence, the labour market will lack flexibility and is subject to a lot of restrictions. The result may run counter to what is desired and this warrants our reconsideration.

Mr WONG Sing-chi thinks that the Employment Ordinance (the Ordinance) should be amended to prohibit employers from dismissing their employees under unfair circumstances. I would like to point out that the existing Ordinance already contains provisions on employment protection. According to the relevant provisions concerned, an employee may claim remedies against an employer under the situation of unreasonable dismissal, unreasonable variation of the terms of the employment contract, or unreasonable and unlawful dismissal. If the employer is unable to prove that this dismissal or variation of the terms of the employment contract is due to the valid reasons stated in the Ordinance, the Labour Tribunal may order that the employee be awarded remedies, which may include an order for reinstatement or re-engagement, or an award of terminal payments, subject to the agreement of both the employer and the employee. In the event that an employee is unreasonably and unlawfully dismissed, even if no order for reinstatement or re-engagement is made, the Labour Tribunal may make an award of compensation to be payable to the employee, and the amount is up to a maximum of \$150,000.

The Government has already reviewed the provisions on employment protection under the Ordinance. In regard to the situation of unreasonable and unlawful dismissal, we are drafting a bill to the effect that the requirement of the employer's prior agreement for an order for reinstatement or re-engagement to be made will be abolished, and if an employer does not comply with the order, he can be required to make additional payments to the employee.

Besides, the Employees Retraining Board (ERB), the Vocational Training Council (VTC) and the Skills Upgrading Scheme (SUS) also provide employment training to employees. Some Members are quite concerned about training and enhancing the ability of the entire working population. The ERB is dedicated to providing training courses and the related post-employment follow-up services under the Manpower Development Scheme. It provides training to local workers affected by economic restructuring so as to assist them in changing occupation or in employment. The ERB maintains close connection and communication with employers and various stakeholders to ensure that the training courses can closely meet the needs and changes of the employment market. Among these courses, Tailor-made Courses are a programme for employers and it provides recruitment and pre-employment training at no cost. The content of the courses can be designed according to the needs of the positions. Through one-stop recruitment, pre-employment training and post-employment follow-up service, the employers can be relieved of their problems in recruiting staff, while job seekers can also be assisted in finding employment, and a win-win situation is thus achieved.

The VTC is the largest vocational education and training institution in Hong Kong. It offers a series of vocational education, industrial training and skills upgrading courses for school leavers and serving employees, with a view to helping them to equip themselves before employment or upgrade their competitive power in employment. The Institute of Professional Education and Knowledge under the VTC provides tailor-made enterprise training and service courses for the business sector so as to upgrade the skills level and professional knowledge of serving employees. The courses cover such areas as financial services, business management, information technology, languages, fashion and image design.

The Government allocated \$400 million to set up the SUS in 2001, and Members have already heard about that. The SUS provides needs-oriented skills

training for in-service elementary workers, in order to strengthen their power of employment and competition in the labour market. The SUS now covers 26 sectors, including exports trade, hotel industry, medical and care sector, household and even personal service sectors. It has so far provided 250 000 training positions in order to help upgrade the skills of serving workers.

The unemployment rates of the youth, the middle aged and people with disabilities are generally higher than the overall average figure of the territory. When the unemployment rate increases due to the financial tsunami, they are usually the most affected groups. Because of this, the LD will strengthen and consolidate various related schemes, including the Youth Pre-employment Training Programme, the Youth Work Experience and Training Scheme, the Employment Programme for the Middle-aged and the Work Orientation and Placement Scheme (WOPS). They will, in the coming two years, provide about 44 000 employment and training opportunities for the people in need.

Mr CHEUNG Kwok-che requests the implementation of a quota system for employing people with disabilities, and the Government has reservations about this proposal. In fact, some overseas countries have implemented a quota system for employing people with disabilities but the effectiveness has yet to be seen. Under a mandatory quota system, people with disabilities will be regarded as a burden of society and they will thus be difficult to be accepted by colleagues. Besides, since a majority of private companies in Hong Kong are SMEs, the implementation of a quota system will be detrimental to their business operation. If they are exempted, the quota system will only be nominal and it will be difficult to achieve any substantial result. Therefore, we think it should be more effective if we help people with disabilities to find the jobs appropriate to their ability while adopting positive and encouraging measures to involve various sectors in promoting employment of people with disabilities.

We have been actively encouraging government departments, government-subsidized organizations, statutory bodies and the business sector to employ people with disabilities. The Government is the largest employer in Hong Kong. We encourage people with disabilities to apply for civil service or non-civil service positions, and will try our best to arrange for people with disabilities to take up suitable positions in the Government so as to assist them in integrating into society. For applicants with disabilities who can meet the entry requirements of the positions applied, they will be invited to interviews without

going through screening. If the applicants with disabilities are suitable for employment, they will be given appropriate priority in appointment. For all these years, the number of employees with disabilities in the entire Civil Service has been maintained at above 2%. We will continue to strengthen the understanding of various government departments of the policy of employing people with disabilities.

In regard to job seeking services, early this month, we obtained the approval of the Finance Committee of the Legislative Council for a provision of \$39.8 million to enhance a series of employment services. \$11 million of that amount will be used to strengthen the WOPS, including increasing the amount of allowance to a maximum of \$4,000 for employers who employ people with disabilities on trial placement, and extending the validity period of allowance from three months to six months. We will introduce some enhanced measures for WOPS next month, and expect that 800 people with disabilities will be benefited in the coming two years. Besides, programmes like the Sunway, a programme providing training to young people and on-the-job training for people with disabilities, organized by the Social Welfare Department will also provide more on-the-job training and trial placement programmes for people with disabilities. The various services mentioned above can effectively support people with disabilities in looking for jobs smoothly.

In her amendment, Mrs Regina IP has mentioned that in determining the pay and bonus for the management of public organizations, their profitability is one of the important criteria for measuring performance, causing some public organizations to fully strive to expand and compete with the private sector for profits, hence disregarding the purposes of their establishment, social justice and the interests of the public. She urges that the Government should formulate guiding principles for the management of public organizations, develop indicators for CSR, and peg the pay or bonus for the remunerated directors and senior executives of public organizations to such indicators.

The Government attaches great importance to sound corporate governance and best management practices. The strengthening of corporate governance of statutory bodies owned or subvented by the Government helps to enhance the overall efficiency and effectiveness of the public sector, which is also an important aspect in the strengthening of public sector management by the Government. The Administration already announced the guidelines in

December 2008, explaining the major principles governing the management structure of government owned or subvented statutory bodies for the reference of Bureau Secretaries and controlling officers responsible for managing and monitoring these organizations. The guidelines suggest that controlling officers should formally set out the targets to be achieved through funding from the Government, and conduct regular reviews of the corporate governance of the organizations.

The Government understands that the public are concerned about the remuneration level of management personnel in government owned or subvented statutory bodies. To step up supervision and regulation of the remunerations of the top three tiers of management personnel in subvented organizations, each organization concerned has to submit an annual report to the Bureau Secretary responsible for the affairs in that area on the detailed remuneration arrangements of the top three tiers of management personnel. To enhance transparency, the Bureau Secretary concerned will also draw up appropriate arrangements with the subvented organizations under his supervision to disclose the content of the review report to the public. Since different public organizations are different in nature, and have different operational needs and requirements for staff, it is thus very difficult for us to prescribe a set of regulations. Not a few public organizations are statutory organizations which have their independent boards of directors or management committees to monitor their management and operation, including the remuneration policy and arrangements of top-level personnel. We should respect these management committees in terms of the appropriateness and transparency of their decisions made on monitoring the remuneration policies and arrangements, and their roles in formulating and submitting remuneration proposals to the supervisory authorities for approval.

President, the SAR Government spares no efforts in actively encouraging enterprises to fulfill social responsibility and protect employees' rights and interests. Apart from encouraging enterprises to be friendly to employees and their families through education and publicity, we have also in place a series of measures, including monitoring, reconciliation, enforcement, training and employment support measures, with a view to maintaining harmonious labour relations and ensuring proper protection of employees' rights and interests. Particularly during this period of time when enterprises are hit by the financial tsunami, this kind of effective measures becomes all the more important.

Next, the Secretary for Financial Services and the Treasury will speak on other areas of the fulfillment of social responsibility by enterprises. We will then listen to the precious views of Members before making another response.

Thank you, President.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Thank you, President. As Secretary Matthew CHEUNG said, a number of Members have proposed amendments to the motion today. This shows that various sectors are growing increasingly concerned about this subject of enterprises fulfilling their social responsibilities and also reflects the rising expectation of the public for enterprises in this regard.

Just now, Secretary Matthew CHEUNG has responded to issues relating to labour-management communication, labour protection and employment training. In the following, I wish to add a few words concerning the core values underlying corporate behaviour, which Members have touched on, including the fulfillment of the social responsibility of enterprises by enhancing the transparency of corporate decision-making, protecting the rights and interests of minority investors, and so on. We also hope that through the implementation of relevant policy measures, support can be provided to enterprises and jobs preserved as far as possible.

Before Members engage in the debate, first, I wish to talk about the duties performed by the Government and financial regulators before going on to talk about corporate social responsibility (CSR). The duty of the Administration and the regulators in the financial sector is to establish a market characterized by fairness, transparency and orderliness at the macro level. At the micro level, their duty is to regulate the organization and operation of companies by means of company law and the Listing Rules, so as to promote sound corporate governance and enhance protection for minority shareholders. A recent example is the concern about whether or not the privatization exercises carried out by majority shareholders are fair to minority shareholders, as Mr CHAN pointed out. Regarding such instances, since there are relevant provisions in company law, it is possible to have recourse to judicial proceedings.

The Government has always been devoted to encouraging and promoting the fulfillment of CSR by enterprises. The awareness and participation of the business sector in this regard have also been boosted. Many business organizations have organized activities to support enterprises in fulfilling their society responsibilities. These activities include the formulation of relevant charters and guidelines and commending enterprises that actively requite society, so that more enterprises can be encouraged to care about society and make greater commitments to the public, the community and the environment when formulating their business strategies. For example, at the beginning of this year, the Hong Kong Quality Assurance Agency and HSBC launched the HKQAA-HSBC CSR Index to provide quantitative performance metrics to measure and improve CSR performance of companies in Hong Kong in four main categories, namely, corporate governance, social well-being, economic growth and environmental conservation. Moreover, the "Caring Company" campaign launched by the Hong Kong Council of Social Service also encourages public organizations, the business sector and non-profit-making service providers to build up a strategic partnership and to participate more actively in social services.

By actively supporting enterprises, it is also the aim of the Government to preserve jobs. At the end of last year, we launched the enhancement measures for the SME Loan Guarantee Scheme and the Special Loan Guarantee Scheme to provide 70% guarantee for commercial loans granted to eligible enterprises. To date, the total loan amount approved under the two schemes has reached \$18.3 billion, benefiting about 7 000 enterprises which employ about 130 000 employees. We believe that through the relevant schemes, we have provided significant support to enterprises and employment.

On enhancing the protection for small investors' rights and interests, in recent years, we have introduced quite a number of measures. In January 2003, the Administration, the Securities and Futures Commission and the Hong Kong Exchanges and Clearing Limited (HKEx) jointly formulated the Corporate Governance Action Plan. The issue of whether or not majority shareholders can disregard the interests of minority shareholders, about which Members have expressed concern, is also covered in the measures spelt out in the Corporate Governance Action Plan. For example:

- In July 2005, the Companies Ordinance introduced a regime to enhance protection of minority shareholders, including the

introduction of statutory derivative actions to enable company shareholders to take legal action against the improper behaviour of their companies. In addition, the Ordinance also empowers minority shareholders to obtain company records more easily through court proceedings, so as to enhance the protection of minority shareholders' rights.

- The HKEx has made improvements to the Listing Rules and released the Code on Corporate Governance Practices and Rules in early 2005 to spell out the principles of good corporate governance and recommend best practices in such areas as the protection for shareholders' rights, directors' and board practices and corporate reporting and disclosures.

In the future, we will also seek to raise the business sector's awareness of social responsibility and corporate civic responsibilities as far as possible. This is evident in our present effort to rewrite the Companies Ordinance. One of the recommendations in the rewriting of the Companies Ordinance is to enhance the transparency of companies and strengthen the disclosure of corporate information. For example, we propose that in the directors' reports, public listed companies and large private companies should be required to provide such information as whether or not their business operation has any impact on the environment as well as employee-related information in addition to their financial performance, so that the transparency of the overall operation of a company can be enhanced, in the hope that while companies seek to maximize profits to enable corporate development, they can also show greater commitment to such areas as social harmony and environmental protection by all means.

President, Members' speeches show fully that it is a major trend for enterprises to fulfil their social responsibility and assume civic responsibility. Members have also suggested that there are dozens of indicators of social responsibility and generally, it is rather difficult to define these indicators. We will listen carefully to what kind of social responsibilities, in Members' opinion, should be assumed voluntarily and monitored by society and what kind of behaviour calls for the introduction of legislation to mandate compliance by enterprises. We will listen to Member's views before giving another response.

Thank you, President.

DR RAYMOND HO (in Cantonese): President, enterprises have always been regarded as economic entities which seek the greatest profits for themselves through economic activities within the bounds of the law. Although the law is one of the major means to regulate activities and behaviour of enterprises, it is unable to cover every single aspect of their operation. Aspects in the grey area may even add to the level of difficulty and time and cost required to resolve problems through legal means. In quite a number of aspects, resolving problems through the fulfillment of social responsibility by enterprises is a better option for both the enterprises and society as a whole. As such, CSR is receiving increasing attention from different sectors of society.

In fulfilling their social responsibility, enterprises will also give consideration to the overall interests of the community while seeking to gain profits at the same time. Of course, enterprises do not do so only for altruistic considerations. As stakeholders related to enterprises have been attaching greater importance to social responsibility, the performance of enterprises in this respect will affect stakeholders' decisions, such as their investors' decisions to invest in them or patrons' decisions to patronize them, or their employees' sense of belonging and commitment to their work. Under such circumstances, enterprises cannot simply disregard their social responsibility.

As a matter of fact, the interests of enterprises and the fulfillment of their social responsibility may not necessarily be opposing forces. The fulfillment of social responsibility by an enterprise in a serious manner may help enhance the popularity of its brand, staff morale and customer loyalty, and also facilitates its business development. Therefore, for enterprises themselves, the fulfillment of social responsibility carries positive implications. The Government should strengthen its communication with the business sector and step up the relevant promotional and incentive measures, thereby enhancing enterprises' awareness of their social responsibility to enable them to implement on their own initiative and with their greatest impetus policies or schemes which are beneficial to society. I would like to cite an example. The proportion of expenditure on research and development (R&D) to the total expenditure of our enterprises is very low, while the corresponding proportion in Singapore and Taiwan is about 2% and that of Japan is over 3%. In the 1960s, the relevant percentage for Japan might be over 2%, and the resources mainly came from the Government. However, with the development down the years, the 3% resources for R&D nowadays mainly come from enterprises, which put part of their profits on their own initiative on work

with long-term benefits to society. This is only one of the examples. Of course, the government has to make efforts in policy, publicity and education before enterprises will carry out such work on their own initiative.

Therefore, I think it is neither right nor appropriate for the Government to require enterprises, through legislation or other mandatory approaches, to implement certain arrangements which are considered by the Government to be necessary for meeting the requirements of social responsibility. Very often, this approach may cause enterprises to lose motivation and the lack of vivacity and flexibility in the implementation and operation of the relevant arrangements, thereby greatly reducing their benefits to society and the enterprises concerned. Worse still, this approach may even have a direct impact on the autonomy of the operation of enterprises. Under the financial tsunami, when the economy has experienced a downturn and the business environment has become very difficult for enterprises, flexibility in operation is vitally important for their survival.

President, the fulfillment of social responsibility by enterprises is worth supporting and implementing. However, in order to maintain the economic impetus and business environment of Hong Kong, the Government should not impose excessive restrictions and regulation on the operational decisions of enterprises in the name of promoting the fulfillment of social responsibility. However, the Government may still promote the fulfillment of social responsibility among enterprises through other more flexible measures in order to achieve a win-win situation for both society and enterprises.

I so submit. Thank you, President.

DR PAN PEY-CHYOU (in Cantonese): President, I believe many people may have heard the saying "a doting mother spoils the child", which means that parents who allow their children to do whatever they wish without imposing any restriction on or providing any guidance for them and without making them realize that they have to be accountable for their actions will definitely cause dire consequences.

When enterprises are set up, they are like newborns, and the Government and the community have to supervise them like parents do and rectify their irresponsible acts through regulation and social pressure. However, by

advocating the so-called policy of "positive non-intervention" all along in the past, the Government has taken the lead to act as parents who neither supervise nor provide guidance to their children and created an excessively lenient business environment for enterprises in Hong Kong, causing them to make decisions in total disregard of the consequences to society. Enterprises only make decisions which serve their own interests, or to be more accurate, they only consider the interests of their shareholders. With these "spoiled children" and such consequences, society, as parents tasked with supervising and guiding them, must do some soul-searching.

First of all, let us take a look at the relationship between enterprises and our living environment. Regarding our environment, every member of the public knows that we have the duty to protect it. Indeed, the people of Hong Kong have become more aware of environmental protection in recent years. For example, we know we must not litter and cause noise nuisances late at night. The impact that an individual has on the environment is only very limited because he has limited power. However, as enterprises have considerable financial strength and are large in scale, it can be argued that they can create a significant impact on the environment.

Very often, the inclination to selfishness in enterprises is more difficult to overcome than that in individuals. In recent years, many enterprises have made improvement in public relations. Realizing that they need a good image, they know they have to make people think that their enterprises respect and protect the environment. However, the reality is quite a number of enterprises do not take actions they advocate. What they actually do is to act in accordance with some latent policies of "sacrificing the common good for oneself".

For example, Members may also have noticed that in recent years a Hong Kong-owned battery factory in the Mainland had exposed its workers chronically to a harmful and strongly toxic substance without any regard to their safety, causing them permanent injuries. This incident, which stretched over the period from 2006 to 2009, has not been reasonably resolved. Workers who had not been awarded the amount of their legitimate damages hoped that they could be awarded a greater amount of damages; but the factory stated that it was only prepared to pay damages according to the amount required under the law. This selfish behaviour of enterprises is indeed very saddening.

Actually, in a society which adopts a *laissez-faire* approach towards enterprises, examples of enterprises failing to act as required are inexhaustible. One of the examples is the right to collective bargaining, which we think is a very serious problem.

Some people may think that the demand for the right to collective bargaining is unnecessary and unreasonable because enterprises are the bosses while workers are employees who should accept whatever their bosses say. However, this is flawed in logic. If employment is a deal to exchange time and skills for money, then the party employed should enjoy an equal status as the employer because it is a deal in which one party is to give manpower and time while the other party is to give money in return. However, the reality is as the party which is employed is subject to the restraint of his own financial strength and manpower, if this party does not have an equal bargaining power as the employer, the employer will always be the winner in this so-called "conflict between employers and employees" on a one-to-one basis.

Besides, employment is not only an exchange of labour for money, it is also a means for the labourer to develop his career, which is a part of life. For workers, it is very important to be on an equal footing with the company. Therefore, the FTU has all along been proposing the establishment of a three-tier system of right to collective bargaining, interlocked at the central, trade and enterprise levels. On 4 February this year, my colleague, Mr IP Wai-ming, moved this motion in this Council and provided the Government with a concrete and practicable proposal.

I would like to give a brief account on it here again. At the central level, we think the status and functions of the Labour Advisory Board should be enhanced, and it should be conferred with statutory power and status so that employers and employees can carry out fair and open discussions on territory-wide labour issues like paternity leave, minimum wage and standard working hours. At the trade level, we propose establishing a collective bargaining committee for different trades to negotiate issues on trade-specific labour rights and benefits so that employers and employees of individual trades and industries can engage in fair negotiations to achieve a win-win situation or even an all-win situation. At the enterprise level, as it is a characteristic of Hong Kong that enterprises are predominantly medium and small in size, we therefore propose that a collective contract at the trade level be used as the basis of the

employment package and criteria for employees of SMEs, and in this way employers and employees can reach an agreement on the amendments to the contract with reference to trade-specific characteristics. Under such a mechanism, we believe the collective agreement system can put the "spoiled children" of society under some regulation. This is a necessary but difficult task. However, how can we avoid an issue which is so crucial in itself?

I so submit.

MR WONG KWOK-HING (in Cantonese): President, in order to promote corporate social responsibility (CSR), I think it is imperative for the Government to play a leading role. As the Government is the biggest employer, so the Secretary agreed, if it does not set a good example and only engages in empty talk instead of taking an exemplary role, the so-called influence of the Government will become meaningless.

In the financial tsunami, the Government used taxpayers' money to bail out the financial industry. However, why did HSBC, as the leader of the financial industry, still take the Government as a fool and effect layoffs as it wished? Why was the Government so deficient in appeal and influence? It is because the Government did not play a leading role, which is the point I would like to highlight.

President, when it comes to this issue, I would target my criticism at the failure of the Government, as the biggest employer, to set a good example. I would like to extend the scope of our reference and find out the problems or characteristics of the staff recruitment system adopted by the Government, as the biggest employer, over the past decade. I think there are four major characteristics which have reflected the Government's failure to fulfil its CSR. That being the case, how can it set a good example? On the contrary, it has set a bad example.

The first characteristic is the full-scale implementation of outsourcing. A decade ago, that is, in 1999, one could still find people like the television drama character "Ah Mao, the street sweeper" in Hong Kong, but now the entire service has been outsourced. In the past, people would think that when one could secure a street cleaning job in the Government, one could lead a stable life and raise a

family. However, all jobs relating to street cleaning and toilet cleaning have been outsourced to contractors which engage in exploitation and only offer a salary of some \$3,000 for such positions which are all taken up by the frail and the old.

President, Secretary, you may go to any public toilet and find out for yourselves at any time how old the staff working there is. Actually, it is really shameful indeed. By doing so, has the Government fulfilled its social responsibility? The Government itself has failed to take up its own responsibility, and it also engages in and encourages exploitation. As security guards at public rental housing estates are replaced every two years, they will become unemployed every two years. In stormy times like this and when people are unable to live a secured life and enjoy job security, how can they do the job well? This is the first characteristic.

The second characteristic is the Government's introduction of the contract appointment terms to replace the permanent appointment terms. Originally, all civil servants, from the highest to the lowest rank, should be employed on permanent terms because they have to serve the public and be especially accountable to the entire society. Unlike employees of ordinary enterprises, they have to meet our special requirements. However, the introduction of contract appointment terms by the Government has made it unable for them to stay long in the labour market. When they realize that their contract will soon expire and that they will soon become unemployed, how can they do their job with full dedication?

Does the Secretary for Labour and Welfare consider the Government's appointment system and its relationship with employees very weird? When the contracts of these contract staff are about to expire, how can they focus on their work? How can they have high morale? As the Government has taken the lead to adopt the contract appointment system instead of the permanent system, private enterprises follow suit. President, the bus companies do not employ permanent bus captains anymore, and the contract appointment system has been adopted instead. These bus captains are worried that they may lose their jobs under the current contract appointment system. They are extremely worried when their contracts are about to expire. Why do bus companies do so? Because they follow the Government's example. In that case, how can they fulfil their CSR? This is the second characteristic.

The third characteristic is the introduction of the so-called permanent appointment terms initiated by the Government, which has given rise to the "3+3" package whereby a three-year contract would be granted after a three-year probation period. Does it mean that the Government is still unable to decide after a three-year probation period whether a person is suitable for the job, and so another three-year contract has to be offered, which add up to a total of six years? How long is the term of the Chief Executive and Bureau Directors? Do they have to go through a probation period of six years before being offered a permanent appointment? Is this "3+3" package not very mean? I think this is extremely mean, and it is a very mean appointment system. The Government indicated that it is necessary to promote CSR, but it has failed to take up its responsibility. This is the third characteristic.

There is still the fourth characteristic which, President, is rarely mentioned. However, I have to "expose" this here in this Chamber today — I used the vulgar word "expose". This has something to do with the appointment system adopted by the modern "labour exploitation companies". Do Members know what "labour exploitation companies" are? In the past, some companies sold and marketed workers abroad and exploited them. There are such "labour exploitation companies" nowadays in Hong Kong. Such situations can be found in our public bodies and government departments now. Instead of employing their own staff when labour force is needed, the departments will engage a company to provide the labour force. This was exactly what the former MTR Corporation did.

That was why so many incidents and safety problems have occurred. At present, the Government and its public bodies are using the labour force provided by "labour exploitation companies". If this situation continues, how can the Government promote CSR? When the Government itself is irresponsible and fails to walk the walk while only talking the talk, and fails to set a good example, how can it induce correct behaviour in others?

President, at a special meeting of the Finance Committee, when I asked the representatives of the Efficiency Unit set up by the Government whether any other outsourcing plans were in place, they responded in the negative. I hope to put this on record. I hope to put an end to the outsourcing system, tackle the problem at root, build up our strength and restore the sound and healthy system. Thank you, President.

MS LI FUNG-YING (in Cantonese): President, the debate of this Council today is on urging enterprises to fulfil their social responsibility. Different political parties and Members of the industrial and commercial sector and the labour sector have expressed their ideas about the fulfillment of social responsibility by enterprises, which has made the motion and the amendments very dynamic. For the labour sector, there has always been the need to urge enterprises to fulfil their social responsibility whether or not the present financial tsunami has occurred. The labour sector has for a long time been demanding a comprehensive review of the labour legislation and the setting of a minimum wage and the provision for the right to collective bargaining. To put it simply, the objective is to require enterprises to fulfil their social responsibility and protect the rights and interests of employees.

President, just by casually thumbing through the newspaper over the past couple of months, we can find much information on the incessant waves of layoffs and cuts on pay and benefits: HSBC laid off 100 staff; the Hong Kong International Terminals laid off 28 staff; the Cathay Pacific required all its staff to take one to four days of no-pay leave; the PCCW Limited required 300 outsourced staff to take an additional day of no-pay leave; and the Shun Tak Holdings Limited reduced the remuneration packages of its staff and abolished their double pay arrangement. Even in this month, the Avery Dennison Corporation, a multinational printing company, also laid off 360 staff; and the Asia Television Limited laid off over 30 staff. Today, many Honourable colleagues also mentioned that the Television Broadcasts Limited laid off an additional 110 staff; the tourism sector has also warned that with the impact of H1N1, almost half of the 50 000 practitioners would become unemployed in the next two months. These press reports are just the tip of the iceberg about the situation of the labour market of Hong Kong. Actually, in order to reduce the attention their massive layoffs would otherwise draw in society, quite a number of enterprises have adopted the progressive approach or the so-called intermittent approach in which staff are laid off in phases separated by short intervals, or employed various other ploys to compel their staff to leave the enterprises voluntarily.

This is the current situation of the labour market under the financial tsunami. I am very glad that colleagues of different political parties and groupings in this Council are concerned about the situation of workers and have called on enterprises to fulfil their social responsibility. On the other hand, however, I have reservation about some wordings used, both in the original

motion and the amendments today. Can such wordings really serve to urge enterprises to fulfil their social responsibility and, as stated in the motion and the amendments, not to effect layoffs and pay cuts, or to conduct prior negotiation with employees even if layoffs and pay cuts have to be imposed, instead of imposing them unilaterally? If the wording of our debate does not point in this direction, I think urging enterprises to fulfil their social responsibility, so to speak, is only empty talk leading us nowhere.

How can we avoid reducing the debate today to empty talk leading us nowhere? President, I think the only means is to conduct a comprehensive review of the labour legislation and include in it the social responsibility to be fulfilled by enterprises. Only in this way can we ensure that employers will fulfil their social responsibility and the rights and benefits of employees will be protected. If we urge employers to fulfil their social responsibility on the one hand but oppose a comprehensive review of the labour legislation on the other, the so-called social responsibility of employers will ultimately be reduced to castles in the air, not being helpful at all to workers caught in sufferings in the financial tsunami.

President, in discussing the fulfillment of social responsibility by enterprises, we must talk about the Government's role. There are two aspects to the Government's fulfillment of its social responsibility, one being that as the biggest employer in Hong Kong, the Government has to fulfil its social responsibility in recruitment, for example, to implement the collective bargaining system in the Civil Service and to include adequate labour protection provisions in outsourced government service contracts. From a broader perspective, the Government is duty-bound to support the unemployed to enable them to tide over the predicament. If it is considered both in the motion and the amendments that it is necessary for the Government to support enterprises which are in difficulty, it follows that it is also necessary for the Government to support the unemployed.

President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, our discussion today is on CSR. I very much agree with the idea of some Honourable colleagues, that besides discussing the social responsibility of private enterprises, actually it is critically important to discuss the Government's CSR.

As the Government is the biggest employer providing services to the general public, what it does is closely related to us. On these two premises, I think we have to discuss the CSR of the Government before discussing the social responsibility of private enterprises. As mentioned by Honourable colleagues, private enterprises often follow the example of the Government, and the Government can serve as a model for them. If the Government fails to fulfil its social responsibility properly, private enterprises will have a better excuse not to fulfil their social responsibility in a proper manner.

Ms LI Fung-ying said just now that the Government is a big employer employing numerous employees. Does it have any social responsibility to fulfil the responsibility of an employer? Mr WONG Kwok-hing cited plenty of examples just now, accusing the Government of being irresponsible. I totally agree with this. The contract appointment terms and the outsourcing system introduced by the Government have become a source of unfairness and inequality for its staff, including the so-called temporary staff. President, I believe you are also aware that, regarding the so-called temporary staff, although they have been employed as temporary staff for more than a decade, they are still temporary staff by job title. However, their duties are the same as those of permanent staff, just that their benefits and terms and conditions are much inferior. Is this fair? Is this equitable? It is the same even for contract staff. They also face the situation of unequal pay for work of equal value. Can the Government improve this situation? This is the biggest problem.

Besides, outsourcing has also induced fear and insecurity among its staff. Mr WONG Kwok-hing said just now that the Government seems to have undertaken not to outsource its services anymore. I hope this is true. However, colleagues of the Food and Environmental Hygiene Department have told me that they still have plenty of jobs pending outsourcing. Therefore, I hope the Secretary can clarify later whether or not the Government will continue to outsource its services. My position is that I strongly oppose this arrangement and I hope it can be discontinued immediately so that there will not be any outsourcing anymore.

Besides discussing the Government's corporate responsibility, we also have to discuss the social responsibility of private enterprises. Certainly, under the financial tsunami, some organizations actually suffered from severe financial hardship as a result of the adverse economic conditions and were forced to effect

layoffs and pay cuts. However, some other enterprises have made use of this opportunity to kill with a borrowed knife and rub salt into the workers' wound despite making huge profits. Although layoffs and pay cuts should not be imposed, these enterprises just did so as they wished and even cut the benefits of their staff. Many Honourable colleagues cited numerous enterprises as examples just now. For instance, such situations also occur in the telecommunications sector. I think the most important point is if employees cannot bargain with these employers, they lack the so-called bargaining power. When employees lack bargaining power, they will be at the others' mercy, so much so that besides being deprived and exploited in the terms and conditions of employment and of their benefits, their dignity will also be stripped, and they are thus deprived of the status to fight for their due rights and interests.

Therefore, Mr LEE Cheuk-yan proposed in his amendment the introduction of the right to collective bargaining, which I think is very important. If the right to collective bargaining cannot be established, many employees will receive unfair treatment, whether under the financial tsunami or otherwise. In requiring social enterprises to take up their social responsibility in Hong Kong, it is most important to protect workers' rights and interests so that justice can be done and their rights and interests upheld, while the right to collective bargaining can facilitate the effective achievement of this purpose. Therefore, I hope the Secretary can affirm to us that the relevant legislation will be introduced in the future to enable workers to enjoy the right to collective bargaining and the social status to bargain with their employers.

Besides, we deeply regret that while we have been discussing the issue of repaying society, some enterprises in society have ignored our requests. For example, over the years, we have raised the issue of whether or not persons with disabilities could be granted half-fare transport concession. President, I believe you may remember that for the past eight years in a row, this Council has discussed this issue every year. Unfortunately, even the present MTR Corporation Limited — of which the Government is the major shareholder — is unable, and reluctant so far, to fulfil its social responsibility. Why? Was the Secretary ashamed when he, for seemingly sound reasons, called on private enterprises to fulfil their social responsibility in his speech today? When even its own public bodies are reluctant to fulfil their social responsibility, does the Government have any right to call on other organizations to fulfil their social responsibility? President, as we are known as the Legislative Council, I really

hope that, instead of being degenerated into a "talk show", we can introduce legislation to ensure that some organizations fulfil their social responsibility. Regarding social responsibility, I hope it can be implemented by way of policy and legislation instead of simply through repeated verbal encouragement. Over the years, we can see that only making verbal encouragement repeatedly was not effective at all, and the only effective means is to implement it by way of legislation and policy formulation, in particular by including provisions in the franchise of some public enterprises in order to impose regulation and restrictions. Only in this way can a high level of effectiveness be achieved, or else, we do not see that these enterprises will fulfil their social responsibility.

President, I so submit.

MR IP KWOK-HIM (in Cantonese): President, when discussing CSR under the financial tsunami, the first thing that comes to mind is probably "three no's", that is, "no layoffs", "no pay cuts" and "no wages in arrears", and the next thing that comes to mind is the business sector's care for society and their contribution through their commitment to such aspects as charitable donations and environmental protection. When Mr CHAN Kam-lam spoke on the original motion just now, he cited examples of enterprises effecting layoffs despite their surplus and profits, which has set a very bad example for CSR.

CSR is not a new concept. It has received increasing global attention or even become a global trend over the past decade or so. Take the Scandinavian country of Norway as an example, its government submitted the first policy white paper on CSR to the parliament in January this year, while in Sweden, another Scandinavian country, a dedicated department is set up in almost all medium and large enterprises to implement CSR. In some enterprises, even a dedicated position of CSR manager is set up to oversee matters relating to the implementation of social responsibility of the entire corporate group.

In Hong Kong, the promotion of CSR appears to have significantly lagged behind these advanced European and American countries. Leaving aside distant places, Hong Kong is inferior to the neighbouring Taiwan on this count. Among the listing companies in Taiwan, 35% of the enterprises have set up a dedicated department for CSR.

The performance of Hong Kong in this respect is indeed far from being satisfactory, which is attributable to the narrow mindset of overemphasizing market economy and the short-sightedness of pursuing profits in the past. Actually, the fulfillment of social responsibility will bring added value to enterprises. A case in point is a multinational consultancy which allows its staff to provide management consultancy services in developing countries on a voluntary basis for three to six months so that organizations which badly need these services but are unable to afford the exorbitant consultancy costs can receive high quality services at a low cost, thereby creating an all-win situation. In the first place, the staff have the opportunity to give full play to their potential and make contribution to organizations in developing countries. In the second place, the company, which seems to have paid a price for it, has gained return which could not be bought with money because its greatest return is the significant enhancement of its reputation and its staff's sense of belonging. In the third place, the target group of the service received first-class management consultancy services at a cost far lower than market rate. Another example is that in order to encourage its staff to devote themselves to charitable causes, a listed company in Taiwan has introduced a "charity leave" system under which staff can take paid leave to participate in charitable activities. The company has granted more than 14 000 days of "charity leave" to its staff since the introduction of this system four years ago.

The SAR Government is in fact duty-bound to promote CSR. The authorities should draw reference from the approaches adopted by advanced Western countries to formulate policies on promoting CSR and set up agencies to implement the relevant policies in order to enhance the social responsibility of enterprises in Hong Kong and urge them to take into account the overall interests of the community in seeking to make profits.

President, as the spokesman for the DAB on manpower affairs, I would like to reiterate the DAB's position here because the right to collective bargaining is mentioned in one of the amendments. In a motion debate at the beginning of this year, I expressed the relevant views on behalf of the DAB in this Chamber. Basically, we consider it beneficial and desirable for Hong Kong to establish a collective bargaining system in the long run because negotiations between employers and employees can be conducted through this mechanism. When a labour dispute arises, it can be resolved through this bargaining mechanism, and

workers will not have to resort to strikes or radical protests or actions to release their dissatisfaction, which will be helpful to maintaining the stability of Hong Kong society. Therefore, the DAB holds that before introducing the right to collective bargaining, support from various sectors of the community must be secured, and a relatively close consensus has to be reached before implementation. Only in this way will the interests of all parties be balanced and general approval be obtained.

As for Mr Tommy CHEUNG's amendment, he proposed to "encourage enterprises to fulfil more social responsibility under the principle that it is performed on a voluntary basis and within their ability". This is a regression from Mr CHAN Kam-lam's original motion. Besides, in Mr LEUNG Kwok-hung's amendment, the wording "discussing with the business sector" and "in seeking to make profits, they must also take into account the overall interests of the community" is deleted. If enterprises are unable to make profits, they cannot survive at all, let alone contributing to society and fulfilling social responsibility. Therefore, we have reservation about this as well.

With these remarks, President, I support Mr CHAN Kam-lam's motion.

MR WONG YUK-MAN (in Cantonese): Premier WEN Jiabao once said, "to run a family, one does not only have to know how to operate and manage it, but should also have to be heavily imbued with moral qualities." (*in Putonghua*)

WEN Jiabao has put it right but not quite adequately, and I have to add that the one in power should even be more heavily imbued with moral qualities. Hong Kong enterprises, particularly public utilities operating in a monopolistic position, are oblivious to their need to fulfil their social responsibility. It is because within the SAR Government which openly claims to represent the people of Hong Kong, the immorality of all high-ranking officials who cultivate malice by tolerance of wickedness has resulted in collusion between business and the Government and the total destruction of CSR, thereby making society to incur much additional cost.

In its platform, the League of Social Democrats (LSD) has made it very clear that many of the public utilities in Hong Kong operate as monopolies, hence

monopolization has already emerged. At present, the public utilities in Hong Kong are operated by large local enterprises. Therefore, these public utilities are duty-bound to fulfil their social responsibility for the local society. Because of the scheme of control agreements of these monopolistic companies, prices have remained high, adding to the burden of the public and the cost of operation. The Government has the duty to comprehensively review the scheme of control agreements and fee adjustment mechanisms applicable to public utilities, amend the profit control legislation, and join hands with the public and non-government organizations to monitor and censure these enterprises whose fulfillment of social responsibility remains to be proved. Effective regulation of public utilities can facilitate the enhancement of price effectiveness and reduce the overall cost for society.

I would like to draw Members' attention to the fact that the two power companies seek to reap exorbitant profits. Besides, the general public is denied any information about their so-called fee adjustment mechanism. When it comes to large enterprises, such as the PCCW Limited (PCCW), if not for the Government's transfer of benefits by introducing the Cyberport project, how could there be Residence Bel-Air? If not for Residence Bel-Air, PCCW would not have existed; and if not for PCCW, a small shareholder would not have jumped off the building: "the stock with the code of eight is a disgrace against morality and common sense, and Richard LI is always prepared to achieve self-serving ends by hook or by crook". This has been clearly revealed in the recent privatization litigation. May I ask what remedy the Government has to address this issue? The Chief Executive breeds evils by lenience and indulgence and cultivates malice by tolerance of wickedness.

Besides, there is yet another incident. I would like to draw Members' attention to the Eastern Harbour Crossing (EHC) and Western Harbour Crossing (WHC). When the CITIC Pacific Limited only focused on foreign exchange speculation instead of paying attention to its core business, causing huge losses and the hasty stepping down of its chairman and managing director, it was a great opportunity to buy out the two tunnels in order to protect the interests of the majority public in Hong Kong and alleviate traffic congestion, right? However, the Government just "could not care less", right?

Honourable Members, requiring the Government to urge enterprises to fulfil their social responsibility is a bark up the wrong tree because the system and

framework are problematic. It is clearly stated in the Basic Law that Hong Kong's capitalistic system will remain unchanged for 50 years. What it is saying is that Hong Kong is an extremely conservative society. How can it be stated in a constitutional document that its capitalistic system will remain unchanged for 50 years? Therefore, Hong Kong, which practises free market capitalism, has become a society with absolute values, and the people of Hong Kong are used to thinking at the functional level, only giving regard to utilitarian considerations but not principles.

At this juncture, I am reminded of Confucius who lived more than 2 000 years ago. Distressed by being unable to practise his beliefs in his home state of Lu, he wandered around various states to spread his ideas. His greatest yearning was the attainment of an equitable society in the Three Dynasties. That is why he said, "When the Great Way prevails, a Public spirit rules the world. The talented and the virtuous are elected, mutual confidence emphasized and harmony cultivated. Thus people love other's parents as their own, and treat all children as theirs. The elders can lead a peaceful life in their twilight years, the adults can be employed for their capability and the youth can grow in body and in mind. Widows and widowers, orphans and the childless, the ill and the invalid are all well taken care of. All men and women have their appropriate roles in society and family. Natural resources are fully utilized for the benefit of all but not appropriated for selfish ends. People contribute their abilities to society and not for private gains. Thus evil scheming is repressed so the doors can be left open. This is called "the state of Great Harmony". This is the society in Great Harmony, which has never been attained in China over the past two thousand years or so. On the contrary, people have to seek these lost rites and values elsewhere. However, some Scandinavian countries, such as certain small countries around the Baltic Sea, can experience this kind of welfare society, right?

Although Hong Kong is hoarding a huge amount of money now, it is unable to narrow the disparity between the rich and the poor. Actually, even Confucius did not see an equitable society — he only yearned for it. Members who have studied *Li Yun* in the *Classic of Rites* will know that he lived in a society called a well-off society during the Spring and Autumn Period and the Warring States Period in which "..... the Great Way has fallen into obscurity, and the kingdom is a family inheritance. Everyone only loves his own parents

and raises his own children. People accumulate goods and use their strength to serve their own ends", everyone just caters for his own needs, right? "Great men imagine it is the rule that their states should descend in their own families. Their object is to make the walls of their cities and suburbs strong and their ditches and moats secure. Propriety and righteousness are regarded as the rules", so there should also be rules of propriety and righteousness, and a system, a regulatory system, has to be put in place. Those people whom Confucius thought highly of were the Six Gentlemen, that is, YU, TANG, WEN, WU, King CHENG and Duke of Zhou. However, Hong Kong people nowadays do not show any moral character after getting rich. Confucius was saddened by the then society in which the rich were arrogant and the poor flattering. Rich people were arrogant, profligate and indulged in a lax way of life, while the impoverished were flattering. This is the way Hong Kong is. The rich have all the say, while the poor look down upon those poorer than them, right? This is a typical capitalistic society.

Nowadays, although neo-liberalism has collapsed, our SAR Government still revels in praising the principle of "big market, small government". According to what Confucius said, he only aimed at striking a balance. Now, we are also only trying to strike a balance.

Those of us who studied journalism have studied three theories: one is the free press theory of a capitalistic society; another one is the communist media theory; and the one in between is known as the social responsibility theory. The social responsibility theory is about a press industry which is free and responsible. All we are asking for are enterprises which are free and responsible, but our effort has come to no avail. The crux of the matter lies in the fact that the Government breeds evils by lenience and indulgence and cultivates malice by tolerance of wickedness. Thank you, President.

MR FREDERICK FUNG (in Cantonese): President, what can the world learn from the experience of this unprecedented financial tsunami? First of all, it has dealt a severe blow to the global economy, and Hong Kong, which is in the midst of it, is no exception. The local GDP has contracted for four consecutive quarters, with the recent quarter recording a "shocking" contraction of 7.8%, which is the greatest plunge since the Asian financial turmoil in 1998. The

economic recession is far more serious than expected and the trough is beyond measure.

President, when the general public is suffering from the blow dealt by the financial tsunami, various countries are beginning to review the pros and cons of capitalism, which has been highly valued in the past, and the extent to which the economic policy, which is devoid of control, should be held responsible for the present financial tsunami. Besides, there are questions about the Government's role in supervision, and enterprises' concept of governance, moral conduct and social responsibility.

In the United States, which is at the centre of the financial tsunami, Alan GREENSPAN, former Chairman of the Federal Reserve, admitted in public his mistake of being excessively lenient in supervision. Besides, the public severely criticized enterprises for solely bending on profits disregarding the risks involved. Earlier, the incident concerning the huge amount of bonus payouts of the American group AIG aroused political controversies. The public found it unacceptable for the senior executives of AIG, which brought about the financial tsunami, to accept the Government's bailout amounting to over US\$100 billion on the one hand and shamelessly receive huge amounts of bonus on the other. This incident even caused the United States Congress to declare its intention of legislating against the payment of exorbitant remuneration and bonus by enterprises to their senior executives.

The above incidents show that in the United States, besides causing the government to reform the regulatory mode of the financial market and enhance its transparency, the blow dealt by the financial tsunami has also caused the public to reflect on the conduct and social responsibility of enterprises and ponder the causes for senior executives of enterprises to carry out numerous commercial acts regardless of the risks involved. Is the previous pursuit of high profit increase by enterprises sustainable? How should responsibilities and benefits be shared among stakeholders, including regulators, senior executives, shareholders and staff of enterprises? How should enterprises address demands relating to public interest, social responsibility and environmental protection?

President, actually the situation of Hong Kong is no exception. The SAR Government has all along been upholding the *laissez-faire* policy. Not only is the regulatory system very lax, but economic and social policies in general are

also tilted towards business operators and enterprises, giving rise to the ubiquitous influence of enterprises and the market. Besides, the authorities often try to attract investments by upholding a high degree of economic freedom. Unfortunately, the financial tsunami has also exposed the loophole of our regulatory mechanism: excessive dependence on market autonomy and always putting profits of enterprises before public interest. The authorities have the misperception that the market is capable of self-regulation and self-improvement. In particular, they thought financial institutions would avoid engaging in high risk activities and irregularities in their own interest. Unfortunately, this is contrary to what has been expected. It was only until the exposure of the Lehman Brothers incident that the authorities woke up to the fact that local financial institutions were so bent on profit-making that they would seek profits by hook or by crook.

On the other hand, we can also see that large local enterprises such as banks would resort to massive layoffs and pay cuts on the ground of the need to cut expenditure and maintain competitiveness whenever there was any sign of an economic downturn, despite their huge profits every year. They would kick down the ladder or even force their staff to leave using various ploys, disregarding their livelihood. Besides, some banks even increased their fees and charges exponentially and closed their branches, having no regard to public interest and the needs of the elderly. President, perhaps there may still be enterprises which think that their sole responsibility is to make profits. As Milton FRIEDMAN, a free market economist said, "the only ground for the survival of an enterprise is to make profits, and another other idea would be ludicrous". They think they can fulfil their social responsibility by making monetary donations and participating in voluntary work when the economy prospers. They intend to turn the fulfillment of social responsibility into a means of developing public relations to establish their corporate image and boost their reputation. This is a very narrow interpretation of CSR.

Actually, President, from a broad perspective, there is more to fulfilling CSR than engaging in charity work. Social responsibility should cover and be integrated into every aspect of the operation of the enterprise concerned. For example, an enterprise must give due regard to the rights and benefits of workers in controlling the cost-effectiveness of its production, and reduce the impact on the environment in the manufacturing, application and disposal processes while promoting the sales of its products.

President, CSR is actually nothing new. In July 2000, the United Nations introduced the United Nations Global Compact (Global Compact) which aims at displaying and establishing the relationship between the operation of enterprises and their social responsibility. The Global Compact provides a guiding framework for enterprises and encourages them to observe the 10 principles stipulated therein in their operation. These principles involve subjects like human rights, labour rights and interests, environmental protection and anti-corruption.

Unfortunately, Hong Kong still lags much behind in the promotion of CSR, and "solely bending on profit-making" is still the only guiding principle for the business operation of many enterprises. Therefore, the Government must learn from the experience of the present financial tsunami and, upon realizing that entrepreneurs in the financial industry could be greedy to such an extent, reform the overall regulatory system, transform the old thinking which abets injustice and tilts towards businessmen, and step up its efforts on urging enterprises to fulfil their genuine social responsibility as provided under the Global Compact introduced by the United Nations in July 2000, which I mentioned just now. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you may now speak on the nine amendments. You may speak up to five minutes.

MR CHAN KAM-LAM (in Cantonese): President, as I expected, the original motion today has attracted as many as nine amendments. This has not only reflected Honourable colleagues' grave concern about the topic, but also demonstrated the inadequacies of enterprises in Hong Kong in promoting social responsibility and the need for review.

The scope of CSR is very wide. I certainly welcome the amendments for the elements added by the amendments have further enriched the content of the original motion. I think it is worthwhile for us to further examine such views as

implementing a quota system for employing people with disabilities in government departments, public organizations and welfare agencies, enhancing governance in the public sector, and making suggestions for the authorities and enterprises to explore the direction to be taken in promoting CSR.

We certainly agree with the amendment calling on major enterprises to show understanding for the operating difficulties of small business operators. At present, the operational situation is relatively poor, with the consumer market continuing to shrink. As those who are affected are mostly small business operators, substantial rent increases will definitely accelerate the closure of small and medium business operators, or force them to pass on the additional rents to customers. Eventually, prices will be pushed up and members of the public will be reluctant to go shopping. In the end, shopping arcades or markets will very likely shrink further.

Mr Tommy CHEUNG's proposed amendment is actually intended to narrow the proposals in my original motion slightly. In other words, enterprises are encouraged to fulfill more social responsibility under the principle that it is performed on a voluntary basis and within their ability. Although the suggestion is not seriously wrong, we think that it will give enterprises an excuse not to fulfill their social responsibility if it is performed merely on a voluntary basis and within their ability. We also consider Mr LEUNG Kwok-hung's amendment, which proposes to delete such wordings as "seeking to make profits" by enterprises, too far from the objective of the establishment of enterprises. Furthermore, enterprises can hardly survive without profits. As it is unrealistic to ask enterprises to continue to fulfil their social responsibility even if they are incurring losses, we have reservations about the amendment.

Thank you, President.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, once again, I thank Mr CHAN Kam-lam for moving this motion today and I also thank the nine Members who have proposed amendments and another nine Members for their speeches. Their views are very valuable and constructive.

A successful enterprise should be far-sighted and at the same time, it must assume social responsibility. In dealing with major business decisions, it should

also consider the effects of these decisions on society, the economy and even the environment. At the same time, it should also take into account other important partners, including employees, consumers, shareholders, suppliers and even the socially disadvantaged groups and the community to which it belongs. Not only will such an approach be conducive to the integration of an enterprise into a community, it is also in line with the spirit of CSR.

Just now, I said that in order to promote CSR in the domain of employment, the Labour Department (LD) has all along encouraged employers to adopt "people-oriented" best personnel management practices in addition to fulfilling their obligations towards their employees and the family members of their employees. The LD will continue to incorporate the concept of CSR into various promotional activities and will spare no efforts in conveying this message to employers.

Some Members are concerned that in view of the economic downturn, some enterprises will have to cut their employees' wages and fringe benefits, so as to reduce operating costs. In the face of this challenge, how will the authorities protect the interests of employees?

The LD has all along striven to protect and enhance the rights of employees. The existing Employment Ordinance also provides appropriate protection to employees. The employment rights prescribed by the Employment Ordinance are the bottomline laid down by the law. Although employers and employees can negotiate their employment benefits and terms freely, any employment right not meeting the stipulations of the Ordinance shall be void.

Enterprises should tide over the present economic difficulties by adopting other cost-saving and revenue-generating measures as far as possible. When, despite having exhausted all other means, pay cuts or layoffs are still inevitable, enterprises should not change the employment terms unilaterally without obtaining the consent of employees. Enterprises should first consult employees and explain clearly to them the reasons for taking such measures, then give them a reasonable period of time to consider this matter and should make variations only after obtaining the consent of employees. The Employment Ordinance requires enterprises to consult the affected employees before varying the terms of employment. Moreover, not only will the unilateral variation of employment terms impact on the morale of employees, service quality and operational

efficiency will also be adversely affected. For employees, before deciding whether or not to accept the variations in employment terms proposed by their companies, they should consider a number of factors. Apart from their rights under the Employment Ordinance, they should also take into account their own financial situation, the chances of changing jobs, the business prospect of the company, and so on.

The LD will be happy to explain to enterprises and their employees how to handle pay cuts and layoffs, help employers and employees hold discussions in a candid, rational and understanding attitude and make appropriate arrangements. It will also provide assistance including consultation and conciliation services, to enterprises and employees with the need.

Mr LEE Cheuk-yan queried whether or not the SAR Government had complied with the provision on collective bargaining in the International Labour Convention (the Convention). I wish to point out that International Labour Convention No. 98 (the Right to Organize and Collective Bargaining Convention of 1949) has been applied to Hong Kong fully since 1975. The SAR Government has also taken measures suited to the situation in Hong Kong in accordance with Article 4 of the Convention by actively encouraging and promoting voluntary negotiation and effective communication between employers and employees or other relevant organizations. The existing practice of voluntary and direct negotiation between employers and employees at the enterprise or sectoral level, underpinned by the conciliation service rendered by the LD, has been working well and has enabled the labour relations in Hong Kong to remain cordial and harmonious.

I have explained when speaking for the first time that I have some reservation about Mr CHEUNG Kwok-che's demand to put in place a quota system for the employment of people with disabilities. I wish to take this opportunity to reiterate that the Government will continue to make efforts to actively encourage various sectors to employ people with disabilities. In this regard, the Labour and Welfare Bureau and the Rehabilitation Advisory Committee have designated "Promotion of Employment of people with disabilities" as the main theme of their public education programmes for the current year. A series of new measures have been implemented to enhance public understanding of the working capabilities of people with disabilities and the support services provided by government departments and rehabilitation

agencies for the employment of people with disabilities, with a view to enhancing cross-sectoral collaboration among the business sector, local communities, government departments and non-governmental organizations in promoting the employment of people with disabilities, thereby supporting the self-reliance of people with disabilities and their full integration into the community.

In fact, our effort has generally elicited positive responses from social welfare agencies, district councils and the business sector. For example, more social welfare organizations are responding to the voluntary formulation of an indicator for the employment of people with disabilities and to the relevant policies and procedures. Many district councils have also organized activities to promote the employment of people with disabilities.

In the face of the financial tsunami, we all know that the business environment and the job market in Hong Kong are fraught with challenges. The Government will continue to create an appropriate business environment and urge enterprises to fulfil their social responsibility through a multi-pronged approach, so as to achieve a win-win situation for employee and employers. I am convinced that so long as the Government, enterprises and employees give one another support and encouragement, they can surely overcome various difficulties hand in hand.

I so submit, President. The Secretary for Financial Services and the Treasury will respond to other views voiced by Members.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I thank Members for airing their valuable views on "urging enterprises to fulfill their social responsibility" today.

The Secretary for Labour and Welfare has responded to the issues relating to employment. My speech will mainly focus on corporate governance and CSR.

First, just now, many Members pointed out that in the face of the economic recession, enterprises should fulfil their social responsibility. Earlier on, I said that all along, the Government had all along provided encouragement and support to the business sector and enterprises to help them fulfil their CSR, so as to make

enterprises care more about society and make greater commitment to the public, society, the environment, and so on, as they develop their business. For many years, various government departments and Policy Bureaux have provided support to the activities organized by trade associations and organizations, including seminars, forums and workshops, so as to promote CSR. We believe that with the active promotion and participation by various sectors in society, a favourable environment can be created to encourage more enterprises to care about society and fulfil their social responsibility.

Many Members think that it is not enough just for the Government to make appeals and that it is necessary to legislate to prescribe some basic standards. As I said at the beginning of the debate, at present, we are rewriting the Companies Ordinance and the aim of many of the proposals therein is to raise the standard of corporate governance and to enhance the protection for minority shareholders' interests. Some of them require companies to disclose information of a non-financial nature, such as the effect of a company's operation on the environment and issues relating to employment. It is hoped that they will also help promote CSR. I am not going to go over them again here.

These proposals will be included in the draft bill on the Companies Ordinance and a public consultation will be carried out by year end.

Meanwhile, the Stock Exchange of Hong Kong Limited will also review the Code on Corporate Governance Practices. In the course of the review, members of the stock market will be consulted and consideration will also be given to the growing importance attached by society to such issues as environmental protection and social responsibility. Reference will also be made to the latest developments in the international community in this regard.

Mr Ronny TONG's amendment proposes that reference be made to the 10 principles for corporate governance under the United Nations Global Compact (the Global Compact) in formulating the guiding principles, with a view to fostering a culture of good corporate governance. We notice that the Global Compact is a voluntary item concerning corporate civic responsibility founded on 10 basic principles, including human rights, labour standards, the environment and anti-corruption measures. Participation in the Global Compact by companies is voluntary and the aim is to promote a good sense of corporate civic responsibility rather than introducing legislation to regulate corporate behaviour.

The educational efforts and publicity of the Government in protecting human rights and workers' welfare, promoting environment protection and combating corruption are in line with the underlying spirit of the Global Compact.

It is the duty of the Government to encourage enterprises to fulfil their social responsibility. The monitoring by Members of the layoffs made by enterprises and the criticisms of the public all exert pressure on these enterprises and make them understand that although fulfilling society responsibility may place an additional burden on their operation in the short term, in the long term, doing so will earn them a good business reputation and good labour relations, boost the morale of employees and attract quality employees, so this is in line with the long-term interests of shareholders.

However, we believe that if we adopt the approach of introducing legislation to mandate all enterprises to display behaviour belonging to the realm of social moral responsibility, there will be considerable difficulties. In a similar vein, we cannot require each member of the public to be a good citizen by way of legislation. Members pointed out that recently, when the Companies Act was reviewed in the United Kingdom, it was proposed that the principle of "enlightened shareholder value" be added in order to promote CSR, and the major requirement is that directors must take due account of wider business factors, such as the interests of employees and the impact of the company's operation on the community and the environment.

As far as I know, in the course of scrutinizing this bill in the United Kingdom, this new requirement aroused quite a lot of controversy in society. When carrying out consultation on the rewriting of the Companies Ordinance, the public were consulted on whether a requirement in the line of the "enlightened shareholder value" found in the Companies Act of the United Kingdom should be introduced and the views collected were quite divergent. Most of the respondents had reservation about "enlightened shareholder value" because the requirements of this proposal are unclear and difficult to define or comply with. Moreover, this would impose a heavy burden on directors and enterprises. In view of this, we believe that some time is needed for society to discuss and make its value judgment on this kind of corporate behaviour and it is not preferable to incorporate the concept of CSR into our legislation hastily.

Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr WONG Sing-chi to move his amendment to the motion.

MR WONG SING-CHI (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr WONG Sing-chi moved the following amendment: (Translation)

"To delete "," after "That" and substitute with "the enterprises in Hong Kong possess a weak sense of fulfilling social responsibility and employers do not pay enough attention to labour rights and interests, and"; and to add "as well as to legislate afresh to protect employees' right to collective bargaining, and amend the Employment Ordinance to prohibit employers from dismissing their employees under unfair circumstances," after "not effect layoffs and pay cuts,"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Sing-chi to Mr CHAN Kam-lam'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 Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG 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, Ms LI Fung-ying, Dr Joseph LEE, Mr CHEUNG Kwok-che and Mr IP Wai-ming voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Dr LAM Tai-fai and Mr Paul CHAN voted against the amendment.

Mr WONG Ting-kwong, Mr CHAN Kin-por and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, 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 LEUNG Kwok-hung, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mr WONG Yuk-man voted for the amendment.

Mrs Regina IP voted against 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 abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, five were in favour of the amendment, 11 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, 18 were in favour of the amendment, one 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 amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "urging enterprises to fulfill their social responsibility" 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 "urging enterprises to fulfill their social responsibility"" 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 Tommy CHEUNG, you may move your amendment.

MR TOMMY CHEUNG (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr Tommy CHEUNG moved the following amendment: (Translation)

"To delete "amid" after "That," and substitute with "as"; to add "has not yet come to a halt" after "tsunami"; to delete "are" after "Hong Kong" and substitute with "still have to"; to add "encourage enterprises to fulfill more social responsibility under the principle that it is performed on a voluntary basis and within their ability, and actively" after "the Government to"; to delete "enhance" after "the community," and substitute with "such as enhancing"; to delete "strengthen" after "decision making," and substitute with "strengthening"; to add "and making every effort to" after "their employees,"; and to delete "and must not effect layoffs and pay cuts, so as to safeguard" before "the rights" and substitute with "; the Government should also actively assist enterprises in expanding their business and enhancing corporate governance, so that layoffs and pay cuts will not be effected as far as possible, thereby safeguarding"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Tommy CHEUNG to Mr CHAN Kam-lam'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 CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam has claimed a division. The division bell will ring for one minute.

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

PRESIDENT (in Cantonese): Miss Tanya CHAN, have you cast your vote?

(Miss Tanya CHAN pressed the button 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 Timothy FOK, Mr Tommy CHEUNG, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN and Mr CHAN Kin-por voted for the amendment.

Ms LI Fung-ying and Mr IP Wai-ming voted against the amendment.

Mr Abraham SHEK, Mr WONG Ting-kwong, Mr CHEUNG Kwok-che and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Dr Priscilla LEUNG, Mr WONG Sing-chi and Mrs Regina IP voted for the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin voted against the amendment.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan 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, 19 were present, 13 were in favour of the amendment, two against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 14 were in favour of the amendment, two against it and 11 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 CHEUNG Kwok-che, you may move your amendment.

MR CHEUNG KWOK-CHE (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr CHEUNG Kwok-che moved the following amendment: (Translation)

"To delete ", amid the financial tsunami, the general public of Hong Kong are stoically facing up to economic hardship" after "That" and substitute with "the unemployment rate has risen further recently"; and to add "implement a quota system for employing people with disabilities in government departments, public organizations and welfare agencies first and then extend the system to the private sector," after "enterprises to fulfill their social responsibility,"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHEUNG Kwok-che to Mr CHAN Kam-lam'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 CHAN Kam-lam rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam 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, Ms LI Fung-ying, Dr Joseph LEE, Mr WONG Ting-kwong, Mr Paul CHAN, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Mr IP Kwok-him voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU and Dr LAM Tai-fai voted against the amendment.

Mr Timothy FOK and Mr CHAN Kin-por abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mr WONG Yuk-man voted for the amendment.

Dr Priscilla LEUNG and Mrs Regina IP voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, eight were in favour of the amendment, nine against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 25 were in favour of the amendment and two against it. 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 Alan LEONG, you may move your amendment.

MR ALAN LEONG (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr Alan LEONG moved the following amendment: (Translation)

"To delete "amid the" after "That," and substitute with "in facing the once-in-a-century"; to delete "and" after "effected layoffs" and substitute with ","; to add "and rent increases against the market trend" before "despite"; to add "and small business operators" after "the public"; to add "show understanding for the operating difficulties of small business operators," after "their employees,"; to delete "and" after "effect layoffs" and substitute with ","; to add "and rent increases" before ", so as to"; and to add ", small business operators" after "interests of employees"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Alan LEONG to Mr CHAN Kam-lam'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 Jeffrey LAM rose to claim a division.

PRESIDENT (in Cantonese): Mr Jeffrey LAM 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, Ms Miriam LAU, Ms LI Fung-ying, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Mr IP Kwok-him voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Paul CHAN voted against the amendment.

Mr Timothy FOK, Prof Patrick LAU, Dr LAM Tai-fai, and Mr CHAN Kin-por abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr WONG Yuk-man and Mrs Regina IP voted for the amendment.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, eight were in favour of the amendment, six against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 26 were in favour of the amendment 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): Mrs Regina IP, you may move your amendment.

MRS REGINA IP (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mrs Regina IP moved the following amendment: (Translation)

"To add "private" after "yet some"; to delete "on the other hand," after "with the public;"; to add "even disregarded the interests of minority shareholders and" after "individual enterprises have"; to delete "private interests, while the interests of minority shareholders are left unprotected; as such" after "maximize their" and substitute with "interests; on the other hand, dozens of public organizations in Hong Kong, some being statutory bodies, provide important public services in areas including housing, transportation, exhibition and financial services, etc; the funding for such organizations is mostly provided by the Government in full or in part, and some of them are able to self-finance by imposing levies or other charges as authorized by legislation; it is learnt that in determining the pay and bonus for the management of these public organizations, their profitability is one of the important criteria for measuring performance, causing some public organizations to fully strive to expand and compete with the private sector for profits, hence disregarding the purposes of their establishment, social justice and the interests of the public; furthermore, as scandals of abuse of public money and mismanagement of public organizations have been repeatedly reported in recent years, the public have become increasingly concerned whether the scope of work and operational philosophy of such organizations have departed from the duties and responsibilities laid down for them by the Government at the time of their

establishment; in view of this"; to add "private" after "environment for"; to delete "enhance" after "the community," and substitute with "including enhancing"; to delete "strengthen" after "decision making," and substitute with "strengthening"; to delete ", fulfill their social responsibility and must not effect" after "their employees" and substitute with "and not effecting"; to add "as far as possible" before ", so as to"; and to add "; on the other hand, the Government should formulate guiding principles for the management of public organizations, develop indicators for 'corporate social responsibility', and peg the pay/bonus for the remunerated directors and senior executives of public organizations to such indicators" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mrs Regina IP to Mr CHAN Kam-lam'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 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, Dr Joseph LEE, Mr WONG Ting-kwong, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che and Mr IP Kwok-him voted for the amendment.

Dr Raymond HO, Mr Abraham SHEK, and Mr IP Wai-ming voted against the amendment.

Mrs Sophie LEUNG, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU and Dr LAM Tai-fai abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Yuk-man and Mrs Regina IP voted for the amendment.

Mr WONG Kwok-hing and Mr WONG Kwok-kin voted against the amendment.

Mr LAU Kong-wah and Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, seven were in favour of the amendment, three against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 23 were in favour of the amendment, two against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may move your amendment.

MR RONNY TONG (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr Ronny TONG moved the following amendment: (Translation)

"To add "make reference to the ten principles for corporate governance under the United Nations Global Compact when rewriting the company laws to formulate clear guiding principles and promote them extensively in Hong Kong, with a view to enhancing a culture of good corporate governance in Hong Kong, as well as to" after "the Government to"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Ronny TONG to Mr CHAN Kam-lam'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 Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG 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, Ms LI Fung-ying, Dr Joseph LEE, Mr CHEUNG Kwok-che and Mr IP Wai-ming voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Paul CHAN voted against the amendment.

Mr Timothy FOK, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, 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 LEUNG Kwok-hung, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mr WONG Yuk-man voted for the amendment.

Mrs Regina IP voted against 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 abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, five were in favour of the amendment, eight against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 19 were in favour of the amendment, one 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 amendment was negatived.

PRESIDENT (in Cantonese): Mr IP Wai-ming, you may move your amendment.

MR IP WAI-MING (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr IP Wai-ming moved the following amendment: (Translation)

"To delete "implement" after "enterprises to fulfill their social responsibility," and substitute with "including: (a) setting an example by making labour protection a major tender assessment criterion when inviting tenders for government service contracts; (b) proactively organizing employers' associations, labour groups and non-government organizations, etc to study and promote the direction and specific proposals for corporate social responsibility; (c) considering legislating to require enterprises to publish annual reports on corporate social responsibility to reflect their work in promoting social responsibility and the effectiveness of their social responsibility-related investments; (d) implementing"; to delete ", and support" after "employment training programmes" and substitute with "; and (e) supporting"; and to delete ", after "difficulty" and substitute with";."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr IP Wai-ming to Mr CHAN Kam-lam'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 Tommy CHEUNG rose to claim a division.

PRESIDENT (in Cantonese): Mr Tommy CHEUNG 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, Ms LI Fung-ying, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Mr IP Kwok-him voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Paul CHAN voted against the amendment.

Mr Timothy FOK, Prof Patrick LAU, Dr LAM Tai-fai and Mr CHAN Kin-por abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin and Mr WONG Yuk-man voted for the amendment.

Mrs Regina IP voted against the amendment.

Mr LAU Kong-wah and Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, seven were in favour of the amendment, eight against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 24 were in favour of the amendment, one against it and two 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 LEUNG Kwok-hung, you may move your amendment.

MR LEUNG KWOK-HUNG (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

Mr LEUNG Kwok-hung moved the following amendment: (Translation)

"To delete "discussing with the business sector to urge enterprises that, in seeking to make profits, they must also take into account the overall interests of the community," after "at the same time" and substitute with "urging enterprises to"; to delete "must" after "social responsibility and"; to add "to" after "not"; and to delete ", so as to safeguard the rights and interests of employees and minority shareholders" immediately before the full stop and substitute with "; enterprises should also have regard to the needs of the socially disadvantaged groups, establish a partnering relationship with community stakeholders, treat their employees well and safeguard labour rights and interests, as well as accord priority to the overall interests of the community, so that they can integrate into the community and be accepted by the public"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEUNG Kwok-hung to Mr CHAN Kam-lam's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for one minute.

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

PRESIDENT (in Cantonese): Mr Albert HO, have you cast your vote?

(Mr Albert HO pressed the button 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, Ms LI Fung-ying, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Ms Miriam LAU, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG and Mr Paul CHAN voted against the amendment.

Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Wai-ming and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Ms Audrey EU, Mr LEE

Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Yuk-man and Mrs Regina IP voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, four were in favour of the amendment, nine against it and six abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 18 were in favour of the amendment and nine 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 LEE Cheuk-yan, you may move your amendment.

MR LEE CHEUK-YAN (in Cantonese): President, to protest against functional constituencies and separate voting, I am not going to move this amendment because this is really too repulsive.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you may now reply and you have three minutes 49 seconds.

MR CHAN KAM-LAM (in Cantonese): President, in the debate today, many Honourable colleagues mentioned the human resources allocation exercise just announced by the Television Broadcasts Limited (TVB) to lay off 110

employees. I remember that last year, it laid off 212 employees and then some 50 employees in February this year. All these make its employees feel very jittery, not knowing when it will be their turn to be given the sack and of course, a serious blow has been dealt to the morale in this company. According to the 2008 Annual Report of the TVB, the profit for 2008 attributable to shareholders was over \$1.055 billion, more or less the same as the \$1.2 billion to \$1.3 billion in previous years. Certainly, we all know that the business environment in 2009 is perhaps worse than that in 2008. However, for a company that has made considerable profits, is it necessary to sacrifice employees' means of living in order to guarantee the profit and revenue of the company? We can by no means accept this kind of practice.

Another example is that in 2000, the two power companies, in order to pursue the maximum return permitted under the law, dared to brave public criticisms by deciding to increase electricity tariffs. Eventually, this made the Government side with the public. When reviewing the scheme of control agreements with the two power companies, it proposed more stringent requirements. For many years, society has been demanding strongly that public transport companies offer free transport or concessionary fares to the elderly and people with disabilities. However, the bus companies have cited the excuse that the Government has not provided any subsidy to openly shift their social responsibility to the Government and this is most infuriating. Another company, the MTR Corporation Limited, in which the Government holds 70% of the shares, is also miserly in its treatment of the elderly and people with disabilities. This is really outrageous.

President, with the worsening business environment, it is understandable that enterprises may only care about future profitability. However, CSR is a duty to society that enterprises have to fulfil and it cannot be neglected. Only a company prepared to shoulder social responsibility can be considered a civilized company that will be welcomed and respected. I hope society can commend such civilized and responsible enterprises and support them in serving the public and doing business in Hong Kong.

President, usually, we are all very busy and do not have the time to watch television. However, last week, at 9.30 pm, I had the occasion to watch an episode of a television drama and I wish to share it with Members. The story so goes that locusts were causing calamities and all rice merchants were hoarding an

enormous stock of rice in anticipation of sharp rises in prices. However, in the drama, Sei Nai Nai (the fourth dame of the family clan) stepped up to the plate and restored public calm by selling rice at a low price, thus averting a calamity and maintaining social stability. President, I think this is the best depiction of CSR, worthy of praise and commendation.

Honourable colleagues, today, Members have already cast their votes a number of times and some newspapers said that we would end up achieving nothing. I hope this will not be the case. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Kam-lam 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 LEE Cheuk-yan rose to claim a division.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for one minute, after which the division will begin.

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, Ms Miriam LAU, Mr Timothy FOK, Ms LI Fung-ying, Mr Tommy CHEUNG, Dr Joseph LEE, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Mr IP Kwok-him voted for the motion.

Mr Abraham SHEK voted against the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Mr Paul CHAN and Mr CHAN Kin-por abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Mr LAU Kong-wah, Ms Emily LAU, Mr TAM Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Miss Tanya CHAN, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr WONG Yuk-man and Mrs Regina IP voted for the motion.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 19 were present, 11 were in favour of the motion, one against it and seven abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 26 were in favour of the motion and one abstained. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was passed.

PRESIDENT (in Cantonese): Second motion: Promoting the development of the testing and certification industry in Hong Kong.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr Andrew LEUNG to speak and move his motion.

PROMOTING THE DEVELOPMENT OF THE TESTING AND CERTIFICATION INDUSTRY IN HONG KONG

MR ANDREW LEUNG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Last Thursday I attended the Hong Kong Q-Mark cum Green Mark Presentation Ceremony 2009 hosted by the Federation of Hong Kong Industries (FHKI). This is the 31st anniversary since the introduction of the Hong Kong Q-Mark Scheme. The Q-Mark, as a sign of consumer confidence in Hong Kong, has become a symbol of confidence in products and services to consumers in the Pearl River Delta. The Hong Kong Productivity Council (HKPC), of which I am the Chairman, has also actively introduced several testing and certification systems from abroad in the past. Last month, the Task Force on Economic Challenges indicated that the Government would actively develop Hong Kong's testing and certification industry into one of the six advantageous industries. The news is most encouraging to the industry.

The industry has been dedicated to promoting product testing and certification, in the firm belief that the interests of consumers can be protected and selection of products by people to their satisfaction will be facilitated if products have gone through testing which are up to international standard and are granted internationally recognized certification. A sound certification system of high standard will also enhance the confidence of product buyers, boosting the sale of products by manufacturers who can also develop their brand names and new markets by making use of the certification. The industrial sector and the testing and certification industry even hope that the Government can promote the development of the relevant industries, and further upgrade the international standing of local testing and certification so as to dovetail with the certification system of the Mainland and overseas. As a result, the same type of commodity will be able to comply with the requirements of different countries by going

through one testing only for certification, thus expanding the number of accessible markets.

President, the incidents involving malachite green a few years ago and melamine last year have enhanced public awareness of product testing. In fact, product testing and certification has a history of several decades in Hong Kong. In the community, a lot of products have gone through testing and been issued different certifications. In Hong Kong, product testing has earned a high degree of credibility and developed into a very stringent system. From assessment of product safety to vigorous monitoring for quality and safety assurance, it has complied with both the standards and legal requirements persistently. Testing on Hong Kong products have been carried out by local testing bodies for quality assurance before delivery to our buyers in Europe and the United States. Given that local testing standard is recognized internationally, Hong Kong absolutely possesses the prerequisites for development into a regional testing and certification centre.

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

In the future, as local, mainland and overseas consumers' awareness of product safety and protection, and their requirement for proving authenticity of products is enhanced, coupled with the tightening of the relevant legislation in various regions, the demand for product testing services will increase tremendously. Moreover, the SAR Government has also announced in advance that the Food Safety Bill will be submitted to the Legislative Council in the next Legislative Session. It is estimated by the industry that 2 million tests will be conducted annually in the future. On the basis that \$600 will be charged for each test by the government and private laboratories, the local testing of food alone will generate a turnover of \$1.2 billion for the industry. If medicines, toys, children's products, consumer goods and precious metals are added to this, the direct economic benefit is estimated to be billions of dollars. If such activities can be developed into an industry, they will bring protection to consumers, and products in our neighboring regions will be attracted to Hong Kong as a product testing centre.

In order to turn this into a successful industry, the SAR Government should make efforts on the accreditation basis of some existing statutory bodies. Apart from the Q-Mark Scheme of the FHKI, the three laboratories under the HKPC are

recognized under the Hong Kong Laboratory Accreditation Scheme (HOKLAS) so that they can conduct tests concerning environmental and product innovation, materials testing and electromagnetic compatibility testing technology. Currently, the HKPC is capable enough to help manufacturers and independent laboratories to set up laboratories that meet various ISO standards. Last year, the HKPC and the Gemmological Association of Hong Kong successfully re-launched the Standard Methods for Testing Diamond for Hong Kong in compliance with the requirements of ISO 17025. Being fully recognized by the HOKLAS under the Hong Kong Accreditation Service (HKAS), certificates issued are internationally recognized, thus conducive to enhancing the international status of Hong Kong's forensic industry.

Regarding automotive parts, the laboratory under the Hong Kong R & D Centre for Automotive Parts & Accessory Systems will start to apply to the HOKLAS for accreditation of its testing equipment in June this year. It is expected that accreditation will be obtained in October 2010. The HKPC is also procuring relevant equipment and providing training to its technicians for its Electromagnetic Compatibility Centre. It is expected that the new centre will be accredited by the HOKLAS in the first quarter of 2011 for conducting the main ISO 7637-2 test in electromagnetic compatibility for automotive parts. These centres will help expand the business opportunities for the automotive parts industry in a large extent.

In the past six months, private laboratories have also purchased more laboratory equipment and upgraded their technology. From this, we can see that the industry has fully prepared itself for the development of the industry before the government announcement.

Deputy President, in order to facilitate discussion, I have put forward five specific proposals in my motion in the hope that this will throw a sprat to catch a whale, attracting more views from Members.

First of all, I suggest outsourcing more government testing services to private laboratories. At present, the Government relies heavily on the Government Laboratory to provide services. Apart from testing imported food, it has to take up tests concerning environmental chemistry, Chinese and Western medicine, dutiable commodities, dangerous goods testing, forensic testing and microbiology testing. Should any unexpected incidents occur, the Government Laboratory will be weighed down with work. As far as I know, the Government

Laboratory has planned to outsource more food testing work to qualified private laboratories. With the laws on food recall and nutrition labelling requirements coming into effect one after another, it is expected that the number of food testing conducted annually by the food industry will be double compared with the current number. By outsourcing the routine food testing work, the Government Laboratory will have some spare capacity to deal with emergency cases, study the integration with foreign countries and develop faster testing methods.

Promotion is the key to the success of an industry. As I said, Hong Kong has a long history in testing and certification, but the Administration has not adopted a proactive approach in promoting the industry overseas. The SAR Government should strengthen publicity through its overseas offices and the Trade Development Council in order to promote the industry in overseas and mainland markets. The Administration should, leveraging on advantage of "one country, two systems", place emphasis on the role of Hong Kong as an independent third party in providing independent testing services for exports produced in the Mainland in order to facilitate manufacturers in acquiring international accreditation.

Currently, local laboratories will conduct product testing with reference to the standard methods adopted by various countries in the world. In order to strengthen the local accreditation system, it is necessary for Hong Kong to standardize the local testing methods so as to ensure consistency of test results. This will facilitate the verification of test results and reduce the time and resources needed by small laboratories in setting up their testing procedures, such that more extensive testing jobs can be taken on.

The Government Laboratory can formulate recognized standard testing methods and procedures for various routine testing jobs. It can draw reference from the practices in testing of diamond, that is, the HKPC, together with the industry and the testing industry, has formulated standard testing procedures for the specific products.

Currently, local laboratories have to rely on the standard reference materials provided by foreign standards bodies to assess the testing methods for standard comparison purposes. I suggest that the Government Laboratory and the relevant organizations develop and provide more standard reference materials in a bid to reduce the operating costs of local testing bodies.

The Administration should actively develop the local product accreditation system. At present, there is a lack of accreditation standard for many high-tech products, such as nanotechnology and far-infrared products. It is difficult for consumers to ascertain the authenticity of the products at the time of purchase. Neither can the efficiency of these products be ascertained. The Administration can seize the opportunity to develop an accreditation system for such high-tech products as this can enhance the image of Hong Kong's quality brand products on the one hand and create business opportunities for the testing and certification industry on the other.

The fourth proposal is on mutual recognition with foreign countries and the Mainland. I suggest reinforcing the reputation of the industry by concluding more mutual recognition agreements overseas. As far as I know, Hong Kong has signed about 120 mutual recognition agreements with more than 50 countries. But there are still comments in the industry about some countries having very little knowledge of the local testing services. For this reason, the Administration should help the industry organize or even subsidize international exchanges in testing, encourage or subsidize testing and certification bodies to participate in international co-operation programmes, such as the research and development of testing technology, proficiency testing and standard setting, and even invite overseas and mainland experts to hold seminars in Hong Kong, or organize industry visits of advanced laboratories overseas so as to provide the industry with more opportunities to gain an understanding of the latest trends in the international community. At the same time, the Administration should also conduct studies on regulations and policies relating to product testing and certification with a view to signing more mutual recognition agreements with different countries and regions. In Hong Kong, the HKAS can also follow the example of the accreditation institutions in foreign countries by allowing recognized testing bodies to use the logo of the International Laboratory Accreditation Cooperation Multilateral Mutual Recognition Arrangement (ILAC-MRA) in order to enhance the level of recognition of reports issued in Hong Kong.

Apart from that, we must capitalize on the advantages of CEPA and the bigger framework of co-operation between Guangdong and Hong Kong by establishing a mutual recognition mechanism for testing services with the Mainland. Currently, the HKAS and the China National Accreditation Service for Conformity Assessment have entered into an international mutual recognition agreement, but due to regulations and industrial regulatory measures, the regulatory authorities of various products in the Mainland cannot recognize the

test reports by HKAS-accredited testing bodies. Therefore, I suggest that the SAR Government, when discussing with the Central Authorities on the scope of liberalization under CEPA in future, should urge the administrative and regulatory departments in the Mainland to recognize the test reports by HKAS-accredited testing bodies. Moreover, a pilot scheme should be implemented in Guangdong Province as soon as possible so that testing bodies in Hong Kong can participate in the compulsory testing and certification businesses in the Mainland, such as the provision of compulsory product certification and testing services in China.

Finally, Deputy President, we need to expand the scope of food testing in order to protect consumer interests. Most of the food in Hong Kong is imported, the quality of which has been tested by the authorities of the exporting countries. The law on nutrition labelling, which will come into effect next year, will require that nutrition labels be affixed to food products. Moreover, a spate of incidents concerning food containing harmful substances in recent years has led to an increasing demand for food quality and testing by local consumers. Hence, the local food testing service should precisely develop a secondary monitoring role. Apart from testing the ingredients of a food product's raw material, its amounts and nutrients, various kinds of testing on safety will also be implemented in compliance with the certification system. This will further cater for the needs and requirements of consumers.

Deputy President, I hope that the Administration will consider the above proposals in its study. And I also hope that Members will speak enthusiastically so as to enlarge our room for discussion. With these remarks, I beg to move.

Mr Andrew LEUNG moved the following motion:

"That Hong Kong has a professional and established testing and certification industry which brings substantial benefits to our economy and helps safeguard the interests of consumers both locally and overseas; in this connection, this Council urges the Government to grasp the market opportunities and draw up a comprehensive plan to facilitate the growth of this industry by:

- (a) outsourcing more government testing services to private laboratories;

- (b) promoting the service of the industry in the Mainland and in the region;
- (c) strengthening the local accreditation system to enable the industry to engage in a wider range of testing services;
- (d) reinforcing the reputation of the industry by concluding more mutual recognition agreements overseas; and
- (e) widening the scope of food testing in the interests of consumers."

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

Two Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the two amendments.

I will call upon Mr Tommy CHEUNG to speak first, to be followed by Mr Fred LI; but no amendments are to be moved at this stage.

MR TOMMY CHEUNG (in Cantonese): Deputy President, many people are not familiar with the local testing and certification industry. But its development started in 1980s and has since silently supported the development of various trades and industries, such as construction, textiles, jewelry, food, medical and law-enforcement agencies of the Government. There are always opportunities in which these sectors need the services. The Task Force on Economic Challenges (TFEC) earlier named six economic areas where Hong Kong has enormous potential and one of these is the testing and certification industry. This shows that this superficially nondescript industry is actually a pearl in a haystack and it is worth studying how to maintain its sustainable development.

Given the double impact of the global financial tsunami and the human swine flu, the priority task of the Government is to seek a new way out and a new bright spot for the local economy. Therefore, the Liberal Party supports today's motion and urges the Government to holistically support the industry and seek

new markets for the sector so that Hong Kong can develop into a regional testing and certification centre.

In fact, the industry enjoys an edge in its high standards and good reputation, with the support of the Mainland which is the world factory. Many overseas buyers, when purchasing goods from the Mainland, are inclined to finding local laboratories to do product testing and inspection. Thus, the market potential is enormous.

However, the Liberal Party has also heard of many grievances voiced by the industry. This is due to the fact that many members in the industry, in order to save transportation costs and time, have tried to set up laboratories in the Mainland direct. But Hong Kong laboratories, as non-Mainland companies, have to overcome a lot of hurdles in order to set up their business there. For instance, they have to spend a few years in applying for certification of qualification for testing and make an investment of not less than US\$350,000. Moreover, two thirds of the laboratory technicians have to pass the Mainland's chemical technician certification examination. However, the examination is very difficult and questions are to be answered in simplified Chinese characters only. Thus, foreign technicians are totally precluded from the examination.

Another headache for the industry is that the mainland authorities have not laid down very clear regulations and standards for the laboratory facilities. The industry can only, based on their experience, feel their way forward cautiously. All these thresholds have become obstacles to their business development in the Mainland.

Therefore, the amendment by the Liberal Party today urges the Government to strive to formulate more measures facilitating the industry in establishing businesses in the Mainland under the framework of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA). For instance, the Administration should seek to include the testing and certification industry as one of those to be opened up under CEPA, or promote mutual recognition of professional qualifications so that locally accredited laboratories can be partially exempted from application procedures when setting up their businesses in the Mainland. Complicated procedures should be streamlined and simplified, while the threshold should be lowered to smooth the channels.

Regarding professionals in the sector, local professionals should be able to obtain the equivalent qualifications after passing a simple test in the Mainland in order to address the shortage of talents in the sector.

Meanwhile, the industry has also pointed out that foreign laboratories can only test products for export whereas goods for domestic sales must be tested by state testing agencies. It is hoped that the Government can provide assistance proactively, listen carefully to the aspirations of the industry and give more assistance to the industry in setting up business in the Mainland.

On the other hand, the local industry in seeking to build itself into a big and strong enterprise should try to open up the Mainland and other regional markets and capitalize on its existing advantages fully. For instance, the Hong Kong Accreditation Service (HKAS) under the Innovation and Technology Commission, which issues accreditation to laboratories, certification bodies and inspection agencies, has signed mutual recognition agreements with 50 countries and regions and more than 70 agencies and organizations, including our major trading partners, such as Europe, the United States and the Mainland, in a bid to strive for a certain degree of credibility for the local testing industry.

The fact that the local accreditation system has won the recognition of more and more countries means that its level of credibility and recognition has further been confirmed. This will be conducive to the development of the industry. Apart from that, this will also play a decisive role in enhancing foreign countries' confidence in products made in China and tested in Hong Kong, giving impetus to quality mainland goods to go global and helping the Pearl River Delta realize the goal of being a world-class advanced manufacturing base. Therefore, the Liberal Party also agrees that the Administration should strive to enter into mutual recognition agreements with more countries.

Meanwhile, the authorities should seek to strengthen the existing accreditation system so that the industry can provide a wider range of testing services, thus promoting its development and consolidating its brand name status in the region and the international community.

Regarding food testing, for example, there has been a spate of incidents concerning contaminated food in recent years, such as fish with malachite green, eggs with Sudan red and milk powder with melamine recently. All these have adversely affected consumer confidence. The Government, as the gate-keeper, should enhance its monitoring role by strengthening the testing of imported food

so as to protect public health. In order to ensure product safety, many food importers and suppliers will take the initiative to appoint private laboratories to undertake product testing before sale so as to avoid losses. However, many retailers has reflected to the Liberal Party that agencies providing food testing service are few and the cost is expensive, thus imposing a heavy burden on the industry. Moreover, the legislation on food recall and nutrition labelling recently passed has pushed the responsibility to suppliers. As long as the authorities think that there is a problem, a food recall will become mandatory. Under such circumstances, the prospect of the industry is worsening.

Despite the fact that 20 laboratories which can conduct comprehensive food testing will come on stream in the next few years according to the Administration's estimation, and the HKAS has set up a working group to advise on how to strengthen the work of food testing, we urge the Government to expedite the work in this area as this will benefit the food and retail industry and promote the development of the testing industry.

Deputy President, the Liberal Party opines that in order to support the development of an industry, appropriate concessions in government policies and measures are essential. Therefore, the Liberal Party proposes in its amendment that the Government provide various taxation incentives. For instance, capital expenditure incurred by the industry for procurement of equipment should be fully deductible in the first year for profits tax purpose in order to encourage further expansion of the scale of the local industry and attract more mainland testing and certification companies to set up offices in Hong Kong. The Government can also increase the amount of tax deductible expenditure on R&D to at least 200%. The Liberal Party also supports further outsourcing of regular testing services to private laboratories provided stringent monitoring is imposed so that a bigger market can be created for the industry.

Regarding the manpower, according to the Central Policy Unit's estimation, the industry is still short of 15 000 specialists. Therefore, the Liberal Party proposes that the Government discuss with local education institutes and organizations on the provision of more professional and on-the-job training courses to solve the problem. As for Mr Fred LI's proposal in his amendment, that a certification system for organic food be established, the Liberal Party believes that it is constructive and worthy of support.

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

MR FRED LI (in Cantonese): Deputy President, today's motion is very good because I can propose an amendment on food safety, which is my concern, especially in the light of the increasing consumption of organic foods. In my speech, I will mention the advantages enjoyed by the testing and certification industry in Hong Kong.

Although the GMP certification system for the local pharmaceutical industry has been shaken due to some recent incidents involving local pharmaceutical factories, crises will bring opportunities. We can take this opportunity to improve the GMP certification system and strengthen monitoring of the pharmaceutical industry. After learning a lesson, we should revamp the system. With stringent monitoring in other areas of the certification service, the local testing and certification industry will be able to restore consumer confidence again.

At the fourth meeting of the TFEC last month, the Central Policy Unit submitted a report on the new pillars of economic development. According to the report, the shortcomings of the industry include its small scale and high cost of testing. Hence, it is relatively difficult for small and medium enterprises to gain accreditation.

The Democratic Party agrees with this observation and because of this, we should defeat the limitations by grasping the advantages. Therefore, the Democratic Party supports the proposals in the original motion and Mr Tommy CHEUNG's amendment today.

The industry can enjoy these advantages due to its hard-won reputation and the opportunities from the market. Apart from the growing market in the Mainland which has brought about more opportunities to the testing and certification industry, the nutrition labelling system soon to be implemented on 1 July next year, the Food Safety Bill to be introduced to the Legislative Council for scrutiny, and the statutory limits on harmful substances in food continuously formulated by the Food and Environmental Hygiene Department in recent years represent a new phase of Hong Kong's food safety policy which has imposed a higher and more comprehensive requirement on new food manufacturing processes. According to the estimation of the Administration, 2 million tests will be carried out annually. The Government Laboratory, which has planned to outsource more regular food monitoring tests to private organizations, intends to

increase the number to at least 77 000 in this year. Therefore, the Government can seize the opportunity to strengthen the accreditation system as this represents a major business opportunity to the industry.

Given the additional opportunity, the Hong Kong Accreditation Service (HKAS) under the Innovation and Technology Commission can provide more accreditation services to meet the market demand. The HKAS will be provided an additional funding of \$1.6 million every year to promote and strengthen the accreditation service related to food testing. However, as more and more food accreditation work will be carried out, in addition to the fact that a number of food-related laws will come into effect and be enacted, the annual additional funding of \$1.6 million is considered inadequate. We agree with the Central Policy Unit that the HKAS needs new resources in order to provide accreditation service for newly required tests for food manufacturing process.

Furthermore, in my amendment, I have also proposed to establish a certification system for organic food. In this regard, the HKAS will need more resources for that purpose.

We have made reference to the practices of other countries where legislation has been enacted to regulate organic food products. In the European Union, the United States and Japan, laws concerning organic farming and relevant food products have been enacted. The relevant legislation has laid down the accreditation standards for organic certification bodies which are required to apply to the competent authority which is usually the Government or an agent accredited by the Government. After an organization has applied for certification, it will be verified and approved by the competent authority if standards are met. Only after going through this process can the organization provide testing service for organic food. The operational standards of these testing bodies are also provided for in law. Under a comprehensive certification system and mechanism, it is ensured that organic food sold in the market has fully complied with the standards.

Over the past few years, the local organic food market has seen rapid development. According to a survey by the Hong Kong Organic Resource Centre in 2008, the percentage of certified organic vegetables in the market in 2008 has increased by nearly 17%, compared with that in 2006. However,

consumers can hardly recognize organic food simply by referring to the appearance and packaging.

Currently, organic food sold in the market is issued with certification by at least nine organic certification agencies, including local, foreign and mainland certification bodies. However, there are still many food products that are considered fake because organic foods are more expensive. The same survey shows that among the 527 vegetable samples taken for the survey, there are claims on about 25% of the packaging which may easily lead to misunderstanding by consumers. Among the 126 samples or 25%, almost half of them claim to be organic. On the packaging of over 30% of these products, there are words such as "using organic materials for cultivation/using organic compost", and 14% carries the wording "no pesticides". As the general public have little knowledge of organic food, they may think that it is organic if natural cultivation is adopted and pesticides are not used. But it is not. Therefore, these words are misleading and confusing to the public. Besides, the words "green food" are printed on the packaging of 5% of such food. In fact, the standard of green food is based on the green food production process standard of China, under which a limited amount of specified chemicals are allowed to be used and there are no restrictions on the use of genetically-modified organisms and derivatives. Therefore, they do not fully comply with the requirements of organic food. Hence, green food is not equivalent to organic food. However, as consumers have little knowledge of certification and organic products, they tend to think that the products they purchase are organic food. Through certification, consumers will have the confidence to purchase these products. According to a survey by the same centre in 2004, 66% of the respondents prefer to buy organic products which have been certified by certification bodies.

As it is difficult for consumers to recognize whether a food product is produced or processed by organic methods simply from the appearance and packaging, it will help them to judge which products are certified and reliable if organic food is sold with appropriate labels after accreditation. Therefore, it is necessary to regulate the sale of organic products and set up a local certification system for organic food in Hong Kong. In this regard, the Hong Kong Government has a greater role to play. Owing to limited resources, the HKAS does not provide accreditation service to organic food. Neither has it set up any liaison channel with the organic food industry and related certification bodies. The Democratic Party opines that if the Government can participate more in the liaison and work in this aspect, provide information to the HKAS, build up a link

with the industry and render more support in relation to certification of organic food, this will help consumers differentiate the products and offer a better opportunity of expanding the organic food certification business for the industry.

I so submit.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): The global financial tsunami has dealt a heavy blow to most economic entities. Hong Kong, as a small and open economy, as well as an international financial centre, cannot be spared. In order to solve the financial problems brought about by the financial tsunami, the Government has taken instant and decisive measures to stabilize our financial system, support enterprises and preserve employment. In order to ensure the sustainable development of Hong Kong economy, the Government has to look for new opportunities for development in the interim.

To enhance Hong Kong's economic strength, we have to upgrade the competitiveness of our core industries and diversify our economic development. In October last year, the Chief Executive set up the Task Force on Economic Challenges (TFEC), which will offer advice to the Government and the business sector for their consideration in response to the current economic challenges and help us to turn adversity into opportunity.

After its fourth meeting last month, the Chief Executive announced that the TFEC would study how to develop the six economic areas where Hong Kong has advantages and the testing and certification industry is one of them.

I am very grateful to Mr Andrew LEUNG for moving today's motion on "Promoting the development of the testing and certification industry in Hong Kong". The motion enables us to take a comprehensive look at this emerging industry. It is also very timely indeed because the Government is now collecting views from society and the sector so that we can help the further development of this industry. I hope Members will express more views on the motion.

In the testing and certification industry, there are more than 300 institutions, employing over 10 000 people. Apart from providing support services which are essential to many industries in Hong Kong, they also protect the interests of local and overseas consumers. The sound certification system in

Hong Kong is internationally renowned. Coupled with the huge mainland market, the testing and certification industry will certainly enjoy enormous development potential.

Deputy President, I will listen to the views of Members and then give a response when the debated is concluded. Thank you, Deputy President.

MR JEFFREY LAM (in Cantonese): Deputy President, first of all, I would like to declare that I am a non-remunerated director of the Hong Kong Standards and Testing Centre.

Deputy President, when it comes to testing service, the "Choice" monthly published by the Consumer Council probably will be the first thing that strikes the mind of many members of the public, for the testing results of all kinds of products are announced in the monthly. However, are we concerned about the safety of air-conditioners or electric fans only in summer? Are we concerned about the safety standard of electric toy lanterns only in the Mid-Autumn Festival? Definitely not. Indeed, every day, the testing and certification industry in Hong Kong is working hard for the safety of all kinds of products, namely, clothing, food, housing and transportation.

Testing and certification services have been provided in Hong Kong for several decades. Testing and certification work carried out is mostly based on the safety regulations and standards adopted by various governments for their products, which has won the trust of European and American countries and international recognition. Many international testing and certification centres have set up branches in Hong Kong. Testing and certification centres will provide quality certification and product testing service in their capacity of an independent third party, which will effectively boost the confidence of overseas and local buyers.

Insofar as the testing and certification service of the Hong Kong Government is concerned, the work outsourced to private laboratories are mainly tasks related to food safety. This year, some 22 000 food testing tasks are outsourced by the Government Laboratory to accredited private laboratories, and the number of tasks to be outsourced is planned to increase to 77 000 next year. It is evident that there are business opportunities and development potential on this front.

However, to ensure that the public is confident in making purchases and can rest assured in using the products, each and every consumer product, such as daily goods, domestic appliances and textiles, should be properly tested. Take toy electrical lanterns I mentioned earlier as an example. Children will play all kinds of electrical toys every day. To facilitate the full enforcement of the Toys and Children's Products Safety Ordinance, which will enhance the quality and safety of toys, the development of the relevant testing and certification work should be reinforced.

Deputy President, with the rapidly changing designs of all kinds of products, statutory regulation should definitely keep up with the time, but testing work, which serves the purpose of gate-keeping, should be properly conducted at the same time. At present, testing work is mainly concentrated in the Government Laboratory, and the products that can be tested are thus limited. For this reason, I think the Government may consider outsourcing the testing work to independent third party organizations by adopting certain incentive measures, so that testing and certification of products can be carried out extensively. Moreover, we may refer to the experience of other advanced countries and establish our own "product accreditation system" in Hong Kong. By means of a regular and sustained monitoring programme, more stringent supervision may be exercised on manufacturers and manufacturing processes, ensuring that the quality and safety of products meet the required standard and requirements set out in laws. The arrangement will accord effective protection to consumers while alleviating the burden of the Government in this respect.

The business sector in Hong Kong has not only been engaged in business in Hong Kong, for they have been investing in the Mainland for three decades, and there are products requiring testing every minute or every second. At present, many testing tasks are required to be carried out by government organizations on the Mainland. Take the toy industry as an example. Toy products manufactured in the Mainland must first pass testing of government organizations to obtain an export permit. At present, testing and certification centres established by Hong Kong people on the Mainland are only regarded as non-official organizations, so they cannot handle testing jobs related to the obtaining of export permits. Besides, products for domestic sales on the Mainland also have to pass testing conducted by government organizations.

It has been 12 years since the reunification, Hong Kong-funded testing organizations, which are non-profit-making, on the Mainland should no longer be

regarded as foreign-funded enterprises, so that these organizations may undertake testing jobs that can only be carried out by state organizations now. With the rapid expansion of the market on the Mainland, government testing and certification organizations have also doubled in number, evident that demand in this respect is increasing. At the same time, Hong Kong businessmen on the Mainland are trying to open up the domestic market of the Mainland, and the demand for testing services will increase rapidly. If Hong Kong-funded non-profit-making testing companies are still regarded as foreign-funded enterprises, they can only handle testing jobs of a non-official nature, which will significantly stifle the room of development of the industry.

At present, Hong Kong businessmen on the Mainland are facing another problem. Since their products may have to pass a number of similar testings and certifications before they can be exported or offered for sale on the Mainland market, they have to incur additional operating cost and reserve more time for product testing. Since the Mainland and Hong Kong have signed CEPA, a mutual recognition mechanism on testing and certification service should be established, so that testing reports issued by accredited organizations on the Mainland or in Hong Kong are accepted by both places, particularly acceptance and accreditation by the Mainland. The arrangement will facilitate the logistic development between Hong Kong and the Mainland and achieve the target of developing the Pearl River Delta into a global manufacturing base as mentioned in the Outline of the Plan for the Reform and Development of the Pearl River Delta (2008-2020). I hope the SAR Government will offer assistance to promote development in this respect.

Deputy President, I so submit.

DR LAM TAI-FAI (in Cantonese): Deputy President, actually, the testing and certification industry in Hong Kong has a good foundation, having won international recognition. Take the Chinese Manufacturers' Associations (CMA) as an example. We have established a testing centre as early as 1979, which can be regarded as the pioneer of the industry, providing comprehensive certification services and systems.

Hence, the CMA and I strongly support that the Government should vigorously implement a development initiative for the testing and certification industry. It should formulate pragmatic and practical proposals to enable any

industry, which has a prominent competitive edge, to develop to the full extent, bringing more opportunities for Hong Kong.

Deputy President, next I will speak on behalf of the CMA, expressing some of its views on the development of the testing and certification industry.

First, it is on the outsourcing of testing services to private laboratories. The requirements on nutrition labels will be implemented in Hong Kong on 1 July next year. According to the estimate of the Government, with the legislation on food safety coming into effect, the food industry will have to conduct 2 million test items each year. Adding to this rising expectation of the public on food safety, the workload of the Government Laboratory is expected to increase substantially. The Government should outsource more testing service to private laboratories with the relevant accreditation in order to cope with the increasing demand for food testing services.

As more private laboratories will apply for qualification accreditation, the Hong Kong Accreditation Service must increase its manpower in handling applications, while the approving procedures should be simplified and expedited.

The Government may consider introducing policies that offer incentives and provide practical support, so that food importers and suppliers may appoint local laboratories to test their food products. It should spare no efforts in promoting the development of food safety testing and certification services, aiming to develop Hong Kong into a food testing hub.

Second, it is on the relaxation of restrictions on the industry in developing business on the Mainland and the establishment of a mutual recognition mechanism. As "commodity inspection and quarantine, food safety, and quality and standardization" is included as one of the nine modalities for co-operation under trade and investment facilitation of CEPA, Hong Kong and the Mainland should expeditiously implement proposals to step up co-operation.

Actually, many overseas buyers and mainland manufacturers have confidence in laboratories in Hong Kong, while the laboratories of different sectors in Hong Kong aspire to entering the mainland market. However, the threshold and requirements on capital, machinery and manpower laid down by the Mainland, which are much higher, have deterred members of the industry of

Hong Kong. The Government should discuss with the mainland authorities on the relaxation of the relevant restrictions with a view to facilitating Hong Kong laboratories in entering the mainland market direct and exploring the ample business opportunities available on the Mainland.

The output of consumer goods exported by the Mainland is increasing constantly, and buyers from Western countries have all along been using the service of local testing organizations in testing mainland products. In view of the development of the mainland export trade, I urge the Government to negotiate with the mainland departments concerned, striving for the Mainland's recognition of the testing standards and reports issued by the testing organizations of Hong Kong, such that a mechanism of mutual recognition can be established between Hong Kong and the Mainland.

Moreover, after the melamine-milk incident happened on the Mainland last year, the Mainland has attached importance to the safety of food and other products. Many mainland food suppliers will first appoint private laboratories to test their products. The Government may facilitate local laboratories in providing product testing service for mainland enterprises in the capacity of a third party. This will not only boost the confidence of buyers, but also open up more business opportunities on the mainland market for the industry.

Third, it is the reinforcement of the accreditation system in Hong Kong. With more and more manufacturing factories moving to the Mainland, the testing and certification industry in Hong Kong must reposition itself to testing the safety of food products and Chinese medicines, and environmental protection technology. But there is a genuine need to establish a comprehensive accreditation system for these items in order to cope with the development of the trade. Hence, at present, it is necessary to enhance the manpower resources and support for the Hong Kong Accreditation Service in dovetailing with the international accreditation system, which will in turn help enhance the competitiveness of the industry. I urge the Government to put in more resources to facilitate private laboratories in establishing standards and provide accreditation services, which will thus reinforce the accreditation system of Hong Kong. Moreover, the testing and certification systems for local food products and proprietary Chinese medicine should be included as major development projects.

Fourth, it is about concluding mutual recognition agreements overseas. To bolster the confidence of overseas buyers in the testing standards of Hong Kong, the Government should conclude more mutual recognition agreements overseas, so that more overseas accreditation organizations will recognize the testing and certification reports issued by Hong Kong. This will enhance the credibility and professional status of the industry, so that it can effectively compete with other international testing and certification brands.

Fifth, it is about widening the scope of food testing. The Government should formulate a comprehensive law on food safety as soon as possible. It should legislate to require the stipulation of the place of origin of all imported food products, widen the scope of food safety testing, and enhance the notification mechanism between Hong Kong and the Mainland on the supply chain of food products. Moreover, it should conclude co-operation agreements to further reinforce the information exchange system on food exported to Hong Kong and the food surveillance system, which includes increasing the frequency of testing of food exported to Hong Kong.

Sixth, it must introduce incentives and establish the relevant matching facilities. In promoting the development of an industry, there is no more practical way than providing tax concession for local enterprises to encourage them to access the mainland market. It may also consider providing land, investment loans and technical support to local laboratories in Hong Kong. Besides, it should think up plans to support and encourage the industry to co-operate with universities on research projects to raise the testing standard.

Finally, it must take vigorous actions to train talents and solve the problem of manpower shortage. The testing industry of Hong Kong has good potential for further development, while laboratory technicians in the industry play the role of gatekeeper in product and food safety. Unfortunately, the industry has been facing the problem of shortage of talents for a long time. Hence, in the short term, I hope that the Government may relax the policy on the admission of mainland talents, for this may provide an immediate solution to the manpower shortage problem. In the long term, the Government must put in more resources for the training of talents.

Deputy President, the testing and certification industry has great potential for development, which will promote the economic development of Hong Kong.

More importantly, it can protect the interests of consumers. I hope the Government will follow up the proposals immediately, vigorously implement the proposals and waste not the opportunity.

Deputy President, I so submit.

MISS TANYA CHAN (in Cantonese): Deputy President, last month, the Task Force on Economic Challenges put forth in high profile the recommendations of promoting the development of six major economic areas, one of which is the testing and certification industry. Actually, by all accounts, Hong Kong has great potential to develop this industry. Insofar as developing the industry into one of the areas providing impetus for the future economy of Hong Kong is concerned, I am quite confident about that. Nonetheless, the assistance of the Government is definitely required.

Surely, the scope of the testing and certification industry is extremely broad. Hence, Hong Kong should select several areas and target its resources on the exploration of those areas. I suggest that Hong Kong may develop this emerging industry, which it has a competitive edge, in various directions. One of these is industrial product certification, and the other is food product certification, which also includes pharmaceutical products, for the market potential of these two areas is enormous.

Many colleagues mentioned food safety earlier, and I too would like to talk about this. Last year, the Government enacted a law to regulate the nutrition labels for food products, requiring food product importers to set out the content of various nutrient components. As a result, importers have to conduct more tests and more in-depth tests of their products to provide consumers with the relevant information. Besides, food incidents like the melamine incident mentioned by many Members earlier and the malachite green incident occurred earlier have made the people of Hong Kong become more conscious about the safety of food products. As such, the gatekeeper function of laboratories has become more important.

The series of food incidents have aroused concern inside and outside the Mainland, and consumers are worried about the possible hazards posed by food products made in China. When a consumer decides whether or not to buy a

certain food product, he will hesitate when he sees the label on the food product reads "made in China". My friend told me that during his visit to the Hong Kong Brands and Products Expo Fair, a visitor next to him put down the food product he was examining once he saw the label "made in China". The credibility of food products from China may be established by employing the testing service in Hong Kong. These products may be put on the market after being confirmed by testing in Hong Kong that they contain no hazardous content, which is a *de facto* promise made to consumers based on the quality of testing service in Hong Kong.

It then comes to industrial product certification. According to the Pearl River Delta Reform and Development Outline of the Mainland, one way for the Mainland to overcome the global financial crisis is to stop playing the role of a "global factory". It should stop relying solely on factories set up by overseas investors, nor should it merely act as the manufacturers of products of overseas brands. On the contrary, China should establish its own brand names, bring them on a par with brands of other places. "Haier", a famous mainland brand for electrical appliances, which we are all familiar with, is a case in point.

There are many large enterprises on the Mainland, and some of them have sufficient capital and conditions to establish their own brand names. However, in the establishment of a brand, be it for domestic or overseas market, the key to success lies in the confidence of consumers in the brand, while consumer confidence is built on the safety and reliability of the brand products. An accreditation system of professionalism and with international recognition will serve this function, for information provided under such a system tells the world that those products "made in China" are absolutely safe and reliable. In other words, Hong Kong may function as a bridge that facilitates mainland products in accessing the global market.

Deputy President, in tandem with the demand for such services, matching measures should be put in place, and capital and talents have to be provided to promote the development of the industry in Hong Kong. Actually, the provision of testing and certification services by Hong Kong laboratories for mainland products will not only support the economic development on the Mainland, but also benefit Hong Kong. In the course of facilitating mainland brands in entering the global market, Hong Kong may bring its professionalism and experience into full play and build up worldwide confidence in mainland products. If the certification industry in Hong Kong can perform its gatekeeper

role well, mainland products which quality is tested and certified in Hong Kong will win the praise of consumers in domestic and overseas markets. The industry will enhance Hong Kong's credibility in the global market, which will in turn help to establish a brand for Hong Kong.

To encourage the younger generation to join the testing and certification industry, the authorities must let them know more about the industry and the prospects of the industry. Hence, I hope that the Government will make concerted efforts with various tertiary institutes to offer more enrichment courses, from fundamental to advanced ones, to cater for the needs of both new comers and in-service members of the industry.

Definitely, in the development of a new industry, capital is a crucial factor. Without money, all ideal concepts will only be vain attempts. However, to date, the culture of investing in emerging industries has not been fostered in Hong Kong. Given the worries about the uncertain prospects of a new industry and the longer lead time for recovering the capital invested in comparison with other basic or familiar industries, people may not be willing to invest in new industries. The development of the industry concerned may be impeded because of the lack of investment. As a result, the younger generation cannot join the industry concerned, which is a pity indeed.

I suggest that the Government may invest more resources in the initial development stage of the industry. It may provide assistance to organizations intent on operate testing and certification businesses in the form of a fund, which may also help investors to start up in the industry. When the development of the industry runs in the groove, the Government may sit back and support the development of the industry merely through policies.

Certainly, the Government should expeditiously introduce policies that can promote the development of the testing and certification industry. It may consider assisting existing private laboratories and product testing organizations in achieving expansion, upgrading technology and exploring the mainland market, so that they can undertake more testing and certification work of a more complicated and professional nature. Or, it may, as proposed in the original motion, outsource more government testing services to private laboratories, which will indirectly help their development. It may even offer tax concession for capital invested in the certification industry.

Deputy President, the testing and certification industry has a long history in Hong Kong, which is poised for further development in depth. In times when mainland enterprises in China are trying to go global, it is an industry that offers enormous potentials. It may on the one hand facilitate the establishment of brands for Hong Kong and the Mainland, while creating more employment opportunities for Hong Kong on the other. Actually, the Government should provide good support for this emerging industry, exploring a new path for the economy of Hong Kong and the younger generation.

I so submit. Thank you, Deputy President.

DR SAMSON TAM (in Cantonese): Deputy President, in recent years, the testing and certification industry has been developing rapidly on the international front, and the room for development is enormous. In Hong Kong, a certain foundation has been laid for such development. In fact, the testing and certification service is closely related to the development of various industries, which is particularly important to the development of high technology. Those who manage to grasp the testing and certification techniques can be a step ahead of others. Those who own these techniques may promote the development of the relevant industries and enhance their competitiveness. Hence, the testing and certification industry is more than an emerging industry, for it will also benefit other industries.

Deputy President, I would like to discuss the reasons for Hong Kong having to develop the testing and certification industry. What is the importance of this industry to Hong Kong? Members all know that more and more countries around the world, such as European and American countries, are now raising the import standard imposed on overseas products. To other enterprises, this is indeed a kind of intangible obstacles, but to the enterprises in these European and American countries, this is an effective measure to protect the enterprises of their countries. Hence, if Hong Kong lacks the techniques in this respect, enterprises here will have to send their products overseas for testing, which is not only time-consuming but will also undermine their competitiveness. In order to shorten the testing and certification cycle, it is crucially important for Hong Kong to develop its testing and certification industry.

What should Hong Kong do? Does Hong Kong have the conditions to develop these industries? I think, in comparison with the Mainland, Hong Kong

definitely has the conditions to develop the industry in this respect, for it is easier for Hong Kong to import the techniques required, particularly because equipment with advanced technology may not be transported to the Mainland so easily. So, if Hong Kong can import the equipment, techniques and talents required, it will surely have an edge over its mainland competitors in terms of room for development.

Deputy President, at present, Hong Kong-funded laboratories or certification organizations have not yet obtained the approval for providing service for the certification of certain requirements on the Mainland. One of the examples is the "3C" certificate, the China Compulsory Certification, which is the mainland version of product and enterprise certification comparable to ISO 9000. Since the certification work in this respect has to be carried out by testing centres and laboratories on the Mainland, more often than not, factories in Hong Kong or their products cannot make use of the testing services provided by Hong Kong organizations. In this connection, we have identified an opportunity, that is, enterprises in Hong Kong may, by means of CEPA or special policies implemented by the Government, strive for the mutual recognition of certification. In my view, the Government should work harder to enable organizations in Hong Kong to provide "3C" certification services for Hong Kong enterprises.

Deputy President, actually, the establishment of standards is the origin of the entire testing and certification industry. In the past, the required standards are usually laid down by European and American countries or some advanced countries, and the testing standards, more often than not, are set by them. However, the situation is changing now, for the Mainland has now got more and more bargaining chips to set its own standards. Take high technology as an example. Guangzhou Municipality has laid down the standard for "Digital Family" and a "Digital Family" laboratory has been set up in Panyu. It is absolutely necessary for Hong Kong to take the initiative to participate in the formulation of these mainland standards. It should, in particular, promptly participate in the relevant testing and certification work, so that it can grasp the development of products as soon as possible. Later, I will visit the "Digital Family" laboratory in Guangzhou with the industry. By then, I hope that officials from the Commerce and Economic Development Bureau will join us. They should strive for the early formulation of policies on setting these standards to make the participation of Hong Kong enterprises possible, or to enable Hong

Kong research centres to promptly participate in the formulation of standards, which will definitely be conducive to the development of the certification industry as a whole.

Regarding the many proposals included in the original motion and amendments today, which include strengthening the accreditation system, concluding more mutual recognition agreements overseas and attracting more foreign investors to develop the testing and certification industry in Hong Kong, and so on, I will give my support to them.

Deputy President, I so submit.

MR WONG TING-KWONG (in Cantonese): Deputy President, earlier on, the Task Force on Economic Challenges decided to conduct in-depth studies on the development of the six economic areas where Hong Kong enjoys clear advantages. Today, I am glad that Mr Andrew LEUNG has proposed to debate the development of one of these areas, "the testing and certification industry", for the development of this industry has all along failed to attract much attention, unlike educational services, medical services and environmental industry, which are frequently mentioned in the motion debates of this Council.

As a representative of the import and export sector, I know full well the importance of the testing and certification industry to Hong Kong enterprises as well as mainland manufacturers. Starting from the 1980s of the last century, manufacturing industries in Hong Kong began to move to the Mainland. A majority of overseas buyers and Hong Kong businessmen preferred to use Hong Kong, an independent third party, as a testing centre to ensure compliance of the products with required standards. As the rules of global trading have changed, many advanced countries no longer regard low price as the primary requirement for products, and they will at the same time take into account the quality and safety of the products, the environmental protection factors, and even the social responsibility of the manufacturing enterprises. All these factors are now conditions to be considered for the importation of products. For instance, the European Union region has imposed a restriction that electronic products should contain no hazardous substance. Restrictions like this have opened up business opportunities for the testing and certification services. As pointed out by industry practitioners, despite the negative impact brought about by the financial

tsunami to various industries all over the world over the past year, the testing industry has been a rare exception, experiencing a double-digit increase in business turnover in the sluggish market.

Deputy President, in recent years, Hong Kong has experienced many incidents related to the safety of food products and pharmaceutical products. The Government is now conducting a large-scale review of the regulatory regime, so more regulation standards are expected to be introduced in future and the number of items that will require testing is expected to increase significantly. At the same time, to cope with the increasing number of food samples that require testing, the Government is arranging as a pilot scheme for the outsourcing some of the food testing services, which will provide even more business opportunities for the industry.

However, the DAB considers that the development of the entire industry must be further promoted. First, it is about talents. The testing and certification industry is after all an industry that requires advanced techniques, and employees in the industry are required to be highly professional. Besides, the scope of testing covers various areas of our daily lives. From safety tests of food products, pharmaceutical products and all kinds of consumer goods to personal health checks, all these fall within the scope of the examination and testing industry. Hence, there is a great demand for relevant technicians. According to the trade, the testing industry in Hong Kong is now in shortage of some 15 000 employees. As such, the problem of shortage of manpower at the bottleneck must be solved in order to promote the sustainable development of the industry.

Another issue that needs to be addressed is the demand for venues. In the past, the testing and certification industry in Hong Kong mainly provided service support to light industrial products of the Mainland. For this reason, only individual international testing organizations are running large-scale operations, while other organizations are not. Worse still, their laboratories are scattered, with some being located in old factory buildings or commercial buildings where the conditions are far from satisfactory. Moreover, owing to the physical constraints, they can hardly carry out testing of sizable products like vehicles or large machinery and equipment. For this reason, the SAR Government should consider offering assistance in terms of land to facilitate the expansion of the industry. For instance, it may allow the industry to develop as a cluster in

science parks or in renovated old industrial areas, so that they may share certain facilities, including chemical waste and bio-waste treatment facilities, so that they will enjoy economies of scale in development.

Moreover, we know that the SAR Government has been making continuous efforts to assist local laboratories and certification organizations to obtain accreditation. It has also concluded mutual recognition agreements with other regions to make the testing and certification reports issued by local organizations applicable in other districts, with a view to engaging the international community. However, in the wake of the financial tsunami, the volume of world trade has shrunk, so much so that even China has to work hard to stimulate domestic consumption. As a result, both Hong Kong and overseas enterprises wish to enter the consumer goods market of the Mainland. However, in the absence of a comprehensive mutual recognition arrangement on testing services between Hong Kong and the international community and the Mainland, the strength of the industry to explore the mainland market is affected.

Besides, the threshold for Hong Kong testing and certification organizations to access the Mainland is set at a high level. As pointed out by the industry, if foreign-funded organizations want to engage in testing business on the Mainland, they must apply for a testing qualification certificate. From the submission of an application to the opening of the laboratory, more often than not, it will take three to five years. Moreover, it is stipulated in the legislation that the organization concerned must have possessed the international certification and testing qualification for at least three years, make an investment of not less than US\$350,000 and two thirds of the technicians working in the laboratory should have passed the chemistry technician certificate examination of the Mainland. Even if the application is successful, the organization concerned can only provide testing services for export products, but not products for the domestic market. Hence, the DAB considers that the Government should act vigorously to negotiate with the mainland authorities to promote mutual recognition between accredited organizations in Hong Kong and the Mainland, and to lower the threshold for enterprises to enter the mainland market. On the spirit of "early and pilot implementation", the SAR Government may first discuss the issue with Guangdong Province, so that the industry may enter the Pearl River Delta Region more easily and provide service to the manufacturers there.

Deputy President, I so submit.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mr Andrew LEUNG, you may now speak on the two amendments. You may speak up to five minutes.

MR ANDREW LEUNG (in Cantonese): Deputy President, first, I would like to thank Mr Tommy CHEUNG and Mr Fred LI for proposing amendments to my motion. I fully agree with the views put forward by the two Members. In particular, I would like to respond to two points. First, Mr Tommy CHEUNG said there should be discussions with local institutes and organizations to encourage them to provide more testing-and-certification-related training programmes to ease the shortage of specialists in the industry. Just as I said earlier, with the Government outsourcing more food testing, private laboratories will need more talents. The Government must complement the training efforts by ploughing in more resources before it can match the pace of development required by the industry.

I have to do some publicity here. The Vocational Training Council (VTC), of which I am the Chairman, now offers 12 relevant Higher Diploma courses, producing approximately 370 graduates annually. However, since the technology and requirements of testing and certification are ever-changing, the institutions hope that they can help students, in terms of software and hardware, to follow closely the latest laboratory technology, so that such laboratories can be used as teaching laboratories. Meanwhile, efforts should be made to follow fully the regular testing procedures of laboratories in general for students to simulate laboratory testing. Therefore, we hope to obtain more resources to establish a pre-testing centre and contact the industry, in order to provide opportunities for students and teaching staff to access the latest technology for testing and certification.

Given the market demand for testing and certification personnel, the VTC is considering running six-month short-term refresher courses for people who have already got the basic knowledge and qualifications of testing and certification or laboratory testing, in order to keep tabs on the industry demand

for personnel with testing and certification expertise. The implementation of the above two initiatives requires government co-operation in terms of resources. I hope there can be a positive response from the authorities.

Furthermore, to assure the standard of personnel providing testing and certification services, the Government can consider establishing a professional qualification recognition system for testing and certification personnel. At present, under the Qualifications Framework, the authorities have not set the specification of competency standards for the testing and certification services industry. I hope the authorities will in future consider establishing a mechanism for the accreditation of qualifications as well as setting the specification of competency standards to assist the industry in training talents.

I have to thank Mr Fred LI for adding after item (c) of my original motion "allocating more resources to the Hong Kong Accreditation Service for providing new accreditation service for food manufacturing process and establishing a certification system for organic food". Accreditation for food manufacturing is an integral part of Q-Mark, and food products already accredited include rice, oil, soy sauce, flour, and even alcohol, processed meat, preserved sausages, mooncakes, coffee, tea, and so on. I suggest that the Government can consider building on this foundation. Organic food is becoming more and more popular in Hong Kong, and the market is ever increasing. And many local farms are also changing gradually, hoping to head towards health food, especially organic food. The introduction of a certification system for organic food can help people to differentiate which are organic vegetables or meat, so that after paying a higher price, they can really buy organic food. This is in line with what I have in mind, that is, to further cater for the interests of consumers in respect of food certification.

Thank you, Deputy President.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Deputy President, I am very grateful to Members for their valuable views and support for the development of the testing and certification industry in Hong Kong. I will certainly reflect their views to the Task Force on Economic Challenges (TFEC) for its reference and consideration when formulating strategies for the development of the testing and certification industry.

Since most industries provide products or services to the public direct, their work can be easily understood and appreciated by the public. However, it is not easy for the testing and certification industry to show the results of its quiet work. The experts and technicians in the industry provide support to the manufacturing and service industries to ensure that their products and services can meet the requirements in terms of their functions, quality and safety. The testing and certification industry serves two important functions. Economically, it eliminates the need for repeated testing, certification and inspection of products, thereby reducing production and transaction costs and facilitating free trade across borders. Socially, they can raise product and service quality to protect consumer interest. Without the testing and certification industry, exporters and importers will encounter many obstacles in their transactions and international trade will be hindered. If the products and food purchased by the public do not carry any quality assurance, our daily life will also be seriously affected.

The local testing and certification industry began to flourish in the 1980s. There are currently over 300 organizations in the industry, most of them being private laboratories. While there are a total of some 10 000 employees in the industry, the size of these organizations vary substantially, with staff sizes ranging from a few to over 2 000 people. Between 1992 and 2002, the total workforce in the industry saw an annual growth of about 10% and between 2003 and 2008, it was 5%, thereby contributing significantly to employment opportunities.

(THE PRESIDENT resumed the Chair)

All along, the industry has been providing a high volume of testing and inspection services for consumer products manufactured in the Pearl River Delta (PRD) Region, such as toys and children's products, electrical and electronic goods and textiles and garments. Moreover, it also provides certification service for these products and the relevant management systems. In recent years, the industry has conducted a greater number of food and drugs tests. Many well-known international testing and certification bodies have launched operations in Hong Kong.

The local testing and certification industry is well-established after a long history of development and enjoys various strengths, including a sound accreditation system that can meet the needs of enterprises; a good international reputation and services that are recognized in most regions, and the capability to win the confidence of overseas and local clients by acting as an independent third party in providing services to mainland enterprises.

Having taken into account these strengths, the TFEC holds that the testing and certification industry can be a new economic pillar of Hong Kong. If we could further develop food safety and industrial product certification services to meet both local demand and that on the Mainland, not only can we help protect consumer interest, Hong Kong brand names can also be established to enhance the competitiveness of local and mainland products in the international market and create more employment opportunities for professionals and skilled workers.

The Government has all along been assisting the testing and certification industry in maintaining its professional standards and promoting its further development through the Hong Kong Accreditation Service (HKAS). The HKAS was set up in 1998 under the Innovation and Technology Commission (ITC) to provide accreditation service to private laboratories and certification and testing bodies. The HKAS encourages private laboratories to obtain accreditation to offer assurance of the reliability of the results of specific tests and calibrations performed them. To clients, if the services of a laboratory are accredited, it means the laboratory is competent in providing reliable testing service in accordance with international standards.

The principal objective of the HKAS is to upgrade the standard of operation of certification bodies, inspection bodies and laboratories; to offer recognition to competent certification bodies, inspection bodies and testing and calibration laboratories which meet international standards; to promote the acceptance of data, results, reports and certificates obtained by accredited certification bodies, inspection bodies and laboratories and to establish mutual recognition agreements with overseas accreditation bodies.

The accreditation provided by the HKAS is well recognized by both the private and public sectors. The HKAS also promotes the acceptance of its accreditation outside Hong Kong by taking part in the international and regional co-operation of accreditation bodies and the multilateral mutual recognition

arrangements administered by them. Through these arrangements, the services provided by laboratories accredited by the HKAS are widely recognized in other economies.

Before granting accreditation, the HKAS will send teams of experts comprising internal staff and external assessors to assess the competence of the applicant organization. Accreditation will be granted only if all the stringent accreditation criteria are met. The specific tests for which a laboratory is accredited by the HKAS are uploaded onto the ITC website for public inspection.

The number of organizations accredited by the HKAS has been increasing steadily. In 2008, the figure rose by 8% from 182 to 197.

One of the important tasks of the TFEC is to make specific proposals for the Government and business community to help Hong Kong turn crises into new business opportunities and upgrade our competitiveness. This will lay a more solid foundation for our economic development in future.

The Chief Executive announced after the fourth meeting of the TFEC in April that the TFEC will study how to further develop the six economic areas where Hong Kong enjoys advantages, namely, testing and certification, medical services, innovation and technology, cultural and creative industries, environmental industry and educational services.

In examining and discussing which economic areas have greater development potential and competitive advantages, the TFEC has mainly considered the following four factors:

- (a) the economic area concerned should be able to benefit Hong Kong's economy in the medium to long term, be built on the existing economic pillars and related industries, and filling or creating niche markets best served by Hong Kong given our competitive advantages;
- (b) the economic area should be able to develop sustainably in a free and open market without relying solely on government input in resources and continued support;

- (c) the potential of the economic area should be assessed by its viability and readiness for development; and
- (d) we have to assess whether the development of the economic areas can capitalize on the opportunities of co-operation with the Mainland and the PRD Region, including those arising from the Outline of the Plan for the Reform and Development of the Pearl River Delta and the National Twelfth Five-Year Plan.

The TFEC is currently studying the development potentials of the testing and certification industry. However, in fact, over the years, the Government has been promoting the development of this industry. I wish to respond to the views raised by several Members in this regard.

Regarding the outsourcing of testing services, the Government's established economic policy is to uphold the principle of "big market, small government" and let the market provide products and services to members of the public direct as far as possible. To achieve this objective, the Government will frequently examine the feasibility of outsourcing proposals.

Regarding food testing, the Government Laboratory has all along been outsourcing its work to the private sector. The resources thus released will be deployed to provide new testing services in support of food legislation to enhance food safety, to conduct testing work involving prosecution, and so on. As a pilot scheme, the Government Laboratory has already started to outsource some 22 000 food tests (including those on sulphur dioxide and preservatives) to accredited private laboratories in 2008-2009. The Government Laboratory plans to increase the number of outsourced tests to at least 77 000 in this fiscal year, accounting for about 50% of its regular food testing work. The increased outsourcing of testing work to the private sector will provide more business opportunities for the private laboratories.

The Government attaches great importance to the quality of outsourcing work. Private laboratories undertaking outsourcing contracts from the Government Laboratory must be accredited by the HKAS and maintain the accreditation status throughout the contract period. In addition, the Government Laboratory would implement a number of quality assurance measures, including

on-site audits and quality control, to monitor the performance of the contract laboratories.

As Hong Kong relies heavily on imported food, in particular, imported food from the Mainland, food testing of samples of imported food conducted by both the Government and food traders is one of the key measures to ensure food safety. Given the increasing public concern for food safety, there is plenty of room for development in the food testing industry in Hong Kong.

With the progressive setting of legal standards for harmful substances in food, for example, preservatives, colouring matters, pesticide residues, and other food additives and the introduction of legislation to empower the authorities to prohibit the import and supply of problematic food and order a food recall if necessary, as well as the commencement of the nutrition labelling requirements on 1 July 2010, the demand from the food trade for testing services would increase substantially. The Food and Health Bureau estimates that the food trade may require some 2 million tests each year when all the new food safety legislation has come into effect. Following the melamine incident last year, many food importers and suppliers have engaged private laboratories to conduct food testing before putting the food on the market shelves. The Government strongly encourages and supports such action by the traders as it will protect consumers' interests and enhance confidence in the food industry in Hong Kong.

At present, 13 local private laboratories have been accredited by the HKAS for conducting various types of food tests. We believe other private laboratories may also enter the food testing market and obtain relevant accreditation from the HKAS if there is sufficient market demand for their services. This year, the Government has allocated an additional \$1.6 million to the HKAS to strengthen its staff and to enhance its accreditation service for food testing.

The International Organization for Standardization published the new standards for food safety management systems ISO 22000 in 2005, which lays down the requirements of the international standard for the safe management of raw food materials, production process, supply and transport. At present, there are already several certification organizations in Hong Kong providing certification services in this regard. Granted the resource support, the HKAS will consider extending the scope of its accreditation to cover ISO 22000 certification.

Mr Fred LI proposes testing of organic food to protect consumer interest. At present, the International Organization for Standardization has not formulated a set of international standards for organic food. The HKAS will closely monitor the development in this regard and explore the possibility of extending the scope of accreditation to organic food.

Regarding the promotion of the industry in the Mainland and the region, the views voiced by Members are very timely. On reaching mutual recognition agreements with places outside Hong Kong, after years of effort, the HKAS has concluded mutual recognition agreements with 71 accreditation bodies in 52 economies, including all the major trading partners of Hong Kong. Through these mutual recognition agreements, the efforts of the HKAS have been extensively recognized around the globe.

The China National Accreditation Service for Conformity Assessment (CNASCA) is a mutual recognition agreement partner of the HKAS in the Mainland. The CNASCA recommends that other organizations in the Mainland accept the testing and certification results of the HKAS. Many mainland manufacturers also use the testing and certification services provided by the certification bodies in Hong Kong as overseas clients consider their service quality to be high and Hong Kong brand names are also widely recognized.

In order to enhance the reputation of the industry, the HKAS actively participates in regional and international accreditation activities. The HKAS is a member of the Asia Pacific Laboratory Accreditation Co-operation (APLAC), the Pacific Accreditation Co-operation, the International Laboratory Accreditation Co-operation (ILAC) and the International Accreditation Forum. The Head of the HKAS is also the incumbent Chairman of the APLAC and the Executive Officer of the ILAC. The HKAS also regularly organizes training and other activities for the APLAC as well as playing an active role in global and regional accreditation bodies. All these efforts are conducive to raising Hong Kong's status in the testing and certification industry.

Mr Tommy CHEUNG proposes that the Government should strive to secure further relaxation of the restrictions on the industry to establish businesses in the Mainland under the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA). In fact, since 2005, it is already possible for the industry to establish sole-proprietorship laboratories in the Mainland and apply for

accreditation by the CNASCA. We will try to gain an understanding of the operation of the industry in the Mainland and examine whether it is necessary to lobby for further support measures under CEPA.

The HKAS also organizes training activities for members of the testing and certification industry to help them raise their professional standard. In 2008, the HKAS organized 11 training programmes and seminars for certification bodies and the subjects included laboratory management, certification and testing, internal auditing and basic metrology. In 2009, the HKAS plans to organize 12 training activities relating to nutrition labelling testing, construction material testing, product certification and testing, and so on.

The HKAS also holds regular client liaison meetings with accredited laboratories and certification and testing bodies to discuss various operational issues, such as assessment procedures, accreditation criteria, scope of testing, monitoring plan, training, and so on. Not only can these liaison channels enable the HKAS to better understand the needs of the industry, they can also provide a platform for the industry to upgrade their professional standard.

Talents training is very important to the development of the testing and certification industry. For this reason, I agree with the proposals of all Members in this regard and will convey them to the University Grants Committee and training institutions, in the hope that local education institutions can provide more training programmes to the industry. I understand that in 2007-2008, the number of graduates majoring in Chemistry in various universities in Hong Kong stood at 500. The Hong Kong Baptist University also offers an MSc programme in Analytical Chemistry and the Vocational Training Council also offers a Higher Diploma programme in Applied and Analytical Chemistry.

The HKAS is the government organization upholding the professional standards in testing and certification and it also provides laboratory accreditation service in 13 technical areas. Areas enjoying greater popularity include the testing of Chinese medicine, construction materials, electrical and electronic products, food, textiles and garments and toys and children's products. The HKAS also provides new services to meet the needs of the market. The proficiency testing and gemstone testing introduced by the HKAS last year is one of the new services that we can develop.

As fakes in the market were damaging consumer confidence, the jewelry associations in Hong Kong contacted the HKAS in 2004 to examine whether an accreditation system could be established for jadeite jade and diamond testing. With the assistance of the HKAS, the Gemological Association of Hong Kong formulated a set of standards for its members. Based on the testing standards developed by the Gemological Association of Hong Kong, the HKAS granted the first accreditation of jadeite jade testing in March 2005. The accreditation of the HKAS boosted the retail sales volume of natural jadeite jade significantly. There are currently seven laboratories accredited to carry out jadeite jade testing in Hong Kong. Following this success, the HKAS developed similar accreditation services for the testing of diamonds and granted the first accreditation last month. More laboratories are expected to acquire accreditation status for the testing of gemstones.

Meanwhile, we have also introduced new services for food testing. In 2008, the HKAS issued the first accreditation to a laboratory to conduct testing on melamine in food. It can thus be seen that the development of the HKAS is catering closely to market needs.

Members propose the offer of tax concessions to the testing and certification industry. In fact, all along, the Government has striven to maintain a simple, low and predictable tax regime to provide a level playing field for the industry. For this reason, proposals on offering tax concessions or other forms of concessions to a specific industry must be considered cautiously.

President, I am very grateful to Members for their valuable views and proposals on the testing and certification industry. These proposals are extremely important and have a bearing on the restructuring of the Hong Kong economy and meeting new challenges. The Government and the TFEC will surely consider them carefully and I can also assure Members that the Government will continue to provide assistance in promoting the development of this industry. Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr Tommy CHEUNG to move his amendment to the motion.

MR TOMMY CHEUNG (in Cantonese): President, I move that Mr Andrew LEUNG's motion be amended.

Mr Tommy CHEUNG moved the following amendment:

"To add "recently the Task Force on Economic Challenges has identified the testing and certification industry as one of the six economic areas where Hong Kong has enormous potential for development and considered that this industry could benefit Hong Kong's economy in the medium and long term; moreover," after "That"; to add "striving to further relax the restrictions on the industry to establish businesses in the Mainland under the Mainland and Hong Kong Closer Economic Partnership Arrangement and" after "(b)"; to delete "; and" after "agreements overseas" and substitute with "so as to enhance international confidence in export products manufactured in Hong Kong and the Mainland;"; and to add "; (f) introducing tax incentives and other encouragement policies to enhance the development of the industry; and (g) discussing with local institutes and organizations to encourage them to provide more testing-and-certification-related training programmes to ease the shortage of specialists in the industry" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Tommy CHEUNG to Mr Andrew LEUNG's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Fred LI, as Mr Tommy CHEUNG's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment. You may now move your revised amendment.

MR FRED LI (in Cantonese): President, I move that Mr Andrew LEUNG's motion as amended by Mr Tommy CHEUNG be further amended by my revised amendment. In fact, I only wish to mention one point, and that is, the certification of organic food. I would not repeat the details. I hope Members will support the amendment. Thank you.

Mr Fred LI moved the following further amendment to the motion as amended by Mr Tommy CHEUNG:

"To add "; and (h) allocating more resources to the Hong Kong Accreditation Service for providing new accreditation service for food manufacturing process and establishing a certification system for organic food to facilitate consumers to recognize such products" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr Fred LI's amendment to Mr Andrew LEUNG's motion as amended by Mr Tommy CHEUNG be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Mr Andrew LEUNG, you may now reply and you have 50 seconds. This debate will come to a close after Mr Andrew LEUNG has replied.

MR ANDREW LEUNG (in Cantonese): A total of seven colleagues have spoken. As I may have picked a good topic, it therefore has the approval of many and not much has been said. Only three of the pan-democrats remain in the Chamber, signalling their easiness with my motion. We have clearly indicated to the Government that we very much support the development of testing and certification as suggested by the TFEC, and I hope the Secretary can bring our aspirations back and realize them as soon as possible. It is after all a good record to wrap up a motion in roughly one and a half hours, so that you can go home early to have dinner with your confidante. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Andrew LEUNG, as amended by Mr Tommy CHEUNG and Mr Fred LI, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11:00 am on Wednesday, 27 May 2009.

Adjourned accordingly at twenty-eight minutes to Nine o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for the Civil Service requested the following post-meeting amendment in respect of a supplementary question to Question 3

Line 1 to 2, second paragraph, page 31 of the Confirmed version

To amend "..... Under the first scheme, some AOs will be seconded to provincial and municipal government agencies for around three to nine months" as "..... Under the first scheme, some civil servants will be seconded to provincial and municipal government agencies for around three months" (Translation)

(Please refer to line 2 to 4, fourth paragraph, page 35 of this Translated version)

Line 3, second paragraph, page 32 of the Confirmed version

To amend "..... 24 AOs" as "..... 25 AOs" (Translation)

(Please refer to line 5, last paragraph, page 36 of this Translated version)

Line 6, second paragraph, page 32 of the Confirmed version

To amend "..... among the 24 new colleagues" as "..... among the 25 new colleagues" (Translation)

(Please refer to line 3, first paragraph, page 37 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Administrative Assistant to Financial Secretary to Ms Audrey EU's supplementary question to Question 3**

As regards the appointment of the Monetary Authority, section 5A(1) of the Exchange Fund Ordinance provides the Financial Secretary with clear powers and responsibilities to appoint the Monetary Authority and draw up the terms of appointment. In appointing the Monetary Authority, the Financial Secretary will act in a fair and impartial manner according to law, and will ensure that the appointee is fit and proper and that the appointment is in the best interests of Hong Kong. To our knowledge, open recruitment of governors of central banks is currently not a common international practice.

The matter concerned was discussed at the special meeting of the Legislative Council Panel on Financial Affairs held on 18 June 2009. A background paper is available at the following link: <<http://www.legco.gov.hk/yr08-09/english/panels/fa/papers/fa0618cb1-1922-e.pdf>>.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Home Affairs to Mr LEUNG Kwok-hung's supplementary question to Question 6**

As regards the proportion of staff members who are ethnic minorities in the Race Relations Unit under the purview of the Constitutional and Mainland Affairs Bureau, as advised by the Constitutional and Mainland Affairs Bureau, the proportion of staff members of the Unit who are ethnic minorities is 20% (one out of five). Staff of the Unit has been maintaining close communication with organizations and individuals of the ethnic minority communities, and has established liaison networks and working relations with them.