

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 24 June 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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

THE HONOURABLE TANYA CHAN

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

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

**MEMBERS ABSENT:**

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

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

**PUBLIC OFFICERS ATTENDING:**

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

THE FINANCIAL SECRETARY

THE HONOURABLE WONG YAN-LUNG, S.C., J.P.

THE SECRETARY FOR JUSTICE

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

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

SECRETARY FOR SECURITY

DR THE HONOURABLE YORK CHOW YAT-NGOK, S.B.S., J.P.

SECRETARY FOR FOOD AND HEALTH

MS FLORENCE HUI HIU-FAI, J.P.

SECRETARY FOR HOME AFFAIRS

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

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

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

MR RAYMOND TAM CHI-YUEN, J.P.  
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, 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>
Electoral Affairs Commission (Electoral Procedure) (Legislative Council) (Amendment) Regulation 2009.....	130/2009
Electoral Affairs Commission (Electoral Procedure) (District Councils) (Amendment) Regulation 2009.....	131/2009
Electoral Affairs Commission (Electoral Procedure) (Election Committee) (Amendment) Regulation 2009.....	132/2009
Electoral Procedure (Chief Executive Election) (Amendment) Regulation 2009.....	133/2009
Electoral Procedure (Village Representative Election) (Amendment) Regulation 2009.....	134/2009

**Other Papers**

- No. 97 — Independent Commission Against Corruption Complaints Committee Annual Report 2008
- No. 98 — Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2008
- No. 99 — Airport Authority Hong Kong Annual Report 2008/09

Report of the Finance Committee on the examination of the Estimates of Expenditure 2009-2010

Report of the Panel on Housing 2008-2009

Report of the Panel on Security 2008-2009

Report of the Panel on Food Safety and Environmental Hygiene  
2008-2009

Report of the Panel on Education 2008-2009

Report of the Panel on Welfare Services 2008-2009

Report of the Bills Committee on Voting by Imprisoned Persons Bill

## **ADDRESSES**

**PRESIDENT** (in Cantonese): Addresses. Mrs Sophie LEUNG will address the Council on the Independent Commission Against Corruption Complaints Committee Annual Report 2008.

### **Independent Commission Against Corruption Complaints Committee Annual Report 2008**

**MRS SOPHIE LEUNG** (in Cantonese): President, as a member of the Independent Commission Against Corruption Complaints Committee (the Committee), I hereby table the Independent Commission Against Corruption Complaints Committee Annual Report 2008 on behalf of the Committee.

This is the Fourteenth Report published by the Committee which provides an account of the work of the Committee for the year 2008. The Committee's major responsibility is to monitor, and where it considers appropriate to review, the handling by the Independent Commission Against Corruption (ICAC) of non-criminal complaints by anyone against the ICAC and its officers. To enhance public understanding of the complaint handling mechanism, the report explains in detail the function and mode of operation of the Committee.

In the year 2008, the Committee held three meetings to consider papers and reports on 22 complaints comprising 46 allegations. In respect of the three

allegations in two complaints found to be substantiated, the relevant ICAC officers were already given appropriate advice. Through examination of the complaints and relevant issues, the Committee has carefully scrutinized the relevant ICAC's internal procedures, guidelines and practices to see whether they need to be updated, with a view to making improvements.

The publication of annual report enables the Committee to brief the public on its work on a regular basis. It can also enhance the accountability and transparency of the Committee's work. Should Members have any comments on it, they are welcome to forward their views to the Secretary of the Committee. The support of this Council and members of the public to the work of the Committee is very much appreciated.

Thank you, President.

**PRESIDENT** (in Cantonese): Mr CHAN Kam-lam will address the Council on the Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2008

### **Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2008**

**MR CHAN KAM-LAM** (in Cantonese): President, as a member of the Advisory Committee on Corruption, I have great honour to table the Hong Kong Special Administrative Region Independent Commission Against Corruption Annual Report 2008 to Members who are present here today.

In 2008, the Independent Commission Against Corruption (ICAC) continued to adopt its three-pronged strategy of law enforcement, prevention and community education to use endeavours to discharge its statutory duty in the fight against corruption, whilst Members of the community continued to express trust and support in the ICAC.

It was believed that the anticipated effect of the global financial crisis has yet to sink in, the number of corruption reports stood at 3 377 in 2008, a slight decrease of 6% over 3 600 in the previous year; amongst them, the number of pursuable reports was 2 621, or 78% of the total, a drop of 5% over that recorded



in 2007. Nevertheless, the case-based conviction rate was as high as 87%, with a 2% increase over 2007, making corruption indeed a high-risk proposition. The proportion of non-anonymous reports rose to a record 74% in recent years, indicative of the disdain the community had for corruption and the trust citizens held in the work of the Commission. In 2008, reports concerning the public sector maintained a downward trend, with 1 189 complaints, 3% less than 2007, and accounted for 35% of the total. Private sector corruption accounted for 65% of the total at 2 188, although it was a decrease of 8% over the previous year, it became increasingly complex and sophisticated. Building management remained a prime concern with 943 reports or 43% of all private sector complaints. To tackle the relevant corruption problems, the ICAC joined forces with relevant government departments and related professional bodies in May to launch a territory wide publicity programme with the aid of a "Building Management Toolkit" for use by its primary targets of 8 000 owners' corporations. It was complemented with a dedicated website on building management information and a one-stop enquiry hotline to enhance the preventive education and support in these respects.

Effective corruption prevention was gaining growing recognition as an effective strategy to enhance the integrity of public service and maintain a level playing field for business. Over the past year, the ICAC has been recommending to Policy Bureaux, government departments and public bodies preventive measures with a view to minimizing the level of corruption risks in their procedures and practices and promoting ethical practices in private organizations through its advisory service. Last year, the ICAC completed 88 assignment studies and surveys on a variety of areas of public concern. Apart from the anti-corruption toolkit in respect of building management I have mentioned just now, it has also compiled a corruption prevention guide for listed companies which enumerated the best practices for the enhancement of governance and internal control in listed companies. The ICAC also provided early advice to government departments and public bodies in the process of formulating new legislations, policies and procedures to ensure that adequate safeguards against corrupt practices are in place. In 2008, such corruption prevention advice was given on 429 occasions. In response to the Administration's plan to speed up the outsourcing of minor public works projects and to create more jobs, the ICAC diverted resources for the provision of prompt advice to government departments as they streamlined procedures and practices in the letting of contracts and recruitment of temporary staff.

President, to keep abreast with the evolving circumstances, the ICAC continued to adopt a focused and client-oriented approach in fostering a culture of probity in specific trades and sectors. In collaboration with the Civil Service Bureau, thematic workshops were conducted during the year on contract management for outsourced public services, handling of staff disciplinary cases and supervisory accountability. A dedicated intranet website for Policy Bureaux and departments was also launched to enable easy access to integrity and related materials. For the private sector, the ICAC continues to work in conjunction with professional bodies and regulatory authorities by putting special efforts to equip SMEs, including those with cross-boundary operations, with the knowhow to manage corruption risk. In tandem, key stakeholders in strategic industries including the insurance and catering industries were engaged to promote ethical management and professional ethics.

Fostering positive values in young people was a lasting commitment of the ICAC. In the year, the ICAC continued its strategy of enhancing moral education endeavours, including an "ICAC Ambassadors" scheme through which volunteer university students are recruited to help spread the probity message to their peers in styles and manners of their own. Similarly, a video competition on "wealth and life" encouraging secondary school students to discover their own positive values in life was also launched. Proactive partnership to further this cause also saw a joint project with seven youth uniformed organizations which would incorporate integrity messages into their regular activities for members. Moreover, the ICAC launched a mobile exhibition vehicle in August to visit various venues in the districts during weekends and schools during weekdays to supplement the ICAC's publicity activities.

The changing times saw the ICAC remaining constantly alert to the new challenges. With the raging financial tsunami gripping the world, and heeding learning from the lessons from the earlier Asian financial crisis, the ICAC was making steps to brace for a possible surge in corruption reports, which included stepping up training in various skills, enhancing the investigative resources with regard to corruption crime in the private sector, so as to ensure that the ICAC could maintain sufficient manpower to meet the challenges.

President, on behalf of the Commissioner of the ICAC, I wish to take this opportunity of tabling this Report to the Council to thank this Council and members of the public for their support to the ICAC and to express my gratitude

to members of the various advisory committees of the ICAC for their valuable contribution over the past year. President, I so submit.

**PRESIDENT** (in Cantonese): Ms Emily LAU will speak on the Report of the Finance Committee on the Examination of the Estimates of Expenditure 2009-2010.

### **Report of the Finance Committee on the Examination of the Estimates of Expenditure 2009-2010**

**MS EMILY LAU** (in Cantonese): President, pursuant to Rules of Procedure 71(11), the Estimates of Expenditure was referred to the Finance Committee (the Committee) during the Council meeting on 25 February. I now represent the Committee to submit the Report on the Examination of the Estimates of Expenditure (the Report).

As usual, in examining the estimates of expenditure, public meetings were held by the Committee to study in detail the various items of the Administration's 2009-2010 expenditure to ensure that the funding required would not exceed the amount needed for implementation of the various government policies. A total of seven special meetings had been held in 20 sessions during 23 to 27 March.

For Members to get hold of sufficient information contained in the Estimates so that they could make the best out of the 20 sessions, as usual, Members were requested to first submit written questions for written replies to be tabled by the Administration prior to the special meetings. President, this year, a total of 2 985 written questions had been submitted by Members, mostly on the objectives and service indicators of the Estimates of Expenditure, especially about the details of expenditures for welfares, medical services, education and other public services, as well as the effectiveness of the services. I am most glad that the Administration could have the written replies to these over 2 900 written questions tabled prior to the special meetings, the electronic version of which had also been uploaded to the Council's website for the public's perusal.

President, concerns raised by Members during the special meetings had been recorded in details in the Report submitted. Due to the global financial tsunami, the global economy deteriorates sharply and posed a severe blow to the

economy of Hong Kong as well. It had been estimated by the Financial Secretary that there would be a negative growth in our economy this year, and that employment situation would not be optimistic. Under this severe and uncertain economic environment, Members were most concerned whether the various measures on developing the economy and relieving the plight of the public could effectively and appropriately preserve jobs and create new employment opportunities.

It had been pointed out by a number of Members that the job opportunities announced by the Administration in the coming three years are mostly internships rather than real job opportunities, and that assistance from the Administration pinpointing the middle and grass-roots public who are out of employment in the current economic environment is lacking. Members urged the Administration to allocate more resources and to adopt speedy and pinpointing measures to create more job opportunities for various industries, to complete the review on Transport Support Scheme as soon as possible, and to establish long-term policy to assist the low-income group and those who need to work across the border.

In the area of promotion of public work projects, President, apart from promoting large-scale infrastructure projects, Members urged the Administration to increase resources for more small-scale public work projects and to allocate manpower resources for speeding up Department's work approval process. Members were of the view that it would help to promote employment if these projects were undertaken as soon as possible.

A number of Members also urged the Administration to allocate more resources for subsidies for pre-school, small class and special education as well as other educational services. Members had also raised their views and concerns on several key tasks of the Government such as support for the reconstruction of Sichuan disastrous region, protection of trees, planning and promotion of cross-border and local infrastructure facilities, promotion of building maintenance funding schemes, as well as regulation of public health services and medicines.

In the aspect of labour rights, President, Members urged the Government to set up the lowest minimum wages as soon as possible, and to allocate sufficient manpower to ensure that legislative work undertaken by the Administration in relation to labour rights and interests would not be delayed. In addition, Members also requested the Administration to consider whether there should be an increase in manpower for the Labour Department to cope with the increased

workload in relation to the provision of employment services and conciliation of labour disputes under the economic downturn.

In the area of constitution development, President, Members were concerned about the public consultation arrangements for the 2012 election. On the development of political appointment system, some Members were of the view that the Administration should review whether the seven Deputy Secretary and Political Assistant vacancies still need to be filled in the midst of the current difficult political and economic environment. On individual rights, Members urged the Administration to provide adequate resources for full implementation of the Racial Discrimination Ordinance enacted last year.

President, the 2009 Appropriation Bill had been passed in the Council on 22 April, and in the past few months, the Administration has been implementing in phases Members' views on this year's Budget, particularly relief measures raised in relation to infrastructure and in address of the economic difficulties. The Committee anticipates the Administration to take more active consideration of measures which will bring further relief and employment opportunities to assist the public to get over their difficulties effectively.

President, I am most grateful for Members' enthusiastic participation in and the Administration's positive response to the current year's special meetings of the Committee. I would like to take this opportunity to pay tribute to staff of the Financial Services and the Treasury Bureau and the Legislative Council Secretariat who spared no effort in support of the work of the Committee.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-hing will address the Council on the report of the Panel on Housing 2008-2009.

### **Report of the Panel on Housing 2008-2009**

**MR WONG KWOK-HING** (in Cantonese): President, in my capacity as Chairman of the Panel on Housing (the Panel), I submit the report of the Panel for the Session of 2008-2009 and briefly speak on several major areas of work in the report.

In view of rising property prices in the private residential market, the Panel had examined the need for the authorities to re-launch the Home Ownership Scheme (HOS) and the Tenants Purchase Scheme (TPS). A majority of panel members considered that the authorities should re-launch HOS and TPS to meet the aspiration for home ownership of low-income families which could not afford to purchase properties in the private sector. They considered that in order to avoid an overlap between HOS and private residential market, consideration could be given to restricting the eligibility for HOS flats to public rental housing (PRH) tenants. This would also help to shorten the average waiting time (AWT) for PRH since tenants would have to return their PRH flats upon successful application for HOS and these flats would be re-allocated to applicants on the Waiting List (WL). As regards TPS, given the fact that about 15 000 new PRH flats would be produced by the Housing Authority (HA) on a yearly basis, these panel members considered that the sale of a few thousand TPS flats to sitting tenants would have little effect on the current stock of PRH flats. Nevertheless, some members considered that the re-launching of HOS would put additional pressure on the private property market. They suggested that HA should make better use of its limited resources on the provision of PRH so as to shorten the AWT for PRH.

With regards to land supply for public housing, the Panel noted that unlike the earlier days when large-scale sites were earmarked for PRH development, HA was facing the problem of shortage of land in recent years. Nowadays, only smaller and scattered sites could be identified for PRH production due to shortage of land and objections from local community. The return of prime cleared PRH sites to the Government for other developments would not only affect the steady supply of PRH to meet demand, but was also undesirable from the planning perspective, particularly on the provision of facilities, since this would mean that new PRH developments would have to share facilities with other existing developments within the district.

Given that more people would register under the WL for PRH in the economic doldrums, there was concern that HA might not be able to maintain the target of AWT at around three years. They urged the authorities to encourage sitting PRH tenants to purchase surplus HOS flats to improve the turnover of PRH flats for re-allocation.

President, as to the designs of PRH estates, some members stressed the need to improve the designs to avoid a "wall effect". They also pointed out that while the use of modular design and component prefabrication techniques would help enhance building quality and site safety, excessive use of such techniques might undermine the job opportunities of local construction workers. The Administration should consider setting aside lands for the manufacture of precast components, with a view to retaining the relevant job opportunities in Hong Kong. The Panel welcomed the provisions for green, safe and healthy living in new PRH developments, including the provision of barrier-free access. Nevertheless, members held the view that these initiatives should be applied to existing PRH estates as far as practicable to improve the living environment of residents concerned (in particular the disabled and the elderly).

President, with regards to the maintenance and management of public housing estates, the Panel welcomed a series of plans to improve building structure and in-flat conditions to be launched by the Housing Department, such as the Comprehensive Structural Investigation Programme and the Total Maintenance Scheme. However, some members had reservations in the Marking Scheme for Environmental Hygiene in Public Housing Estates (the Marking Scheme). They considered the fact that the entire family should be held liable for a misdeed committed by an individual family member was unfair, as the consequence might be termination of tenancy. Furthermore, the Marking Scheme might lead to double penalty for misdeeds, such as illegal gambling in public places, which was already a criminal offence under existing laws.

President, the Panel had been following closely issues relating to the management of retail and car-parking facilities (RC facilities) in public housing estates after the divestment. Some members reiterated that the decision to privatize public assets was wrong from the start, which had not only affected the livelihood of retailers but also the prices of goods as the rents soared. This was at variance with the undertaking formerly given by the Link management that it would not increase the rents if the patronage traffic and sales revenue had not increased correspondingly. To resolve the problem, the Administration was urged to seriously consider buying back the shares of The Link.

The other major areas of work of the Panel are summarized in the report submitted to this Council. I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): Mr LAU Kong-wah will address the Council on the report of the Panel on Security 2008-2009.

### **Report of the Panel on Security 2008-2009**

**MR LAU KONG-WAH** (in Cantonese): President, in my capacity as Chairman of the Panel on Security (the Panel), I submit the report of the Panel for the Legislative Council Session of 2008-2009 and speak briefly on several major areas of work of the Panel.

Regarding the incident at the end of 2008 where hundreds of Hong Kong residents were stranded in Thailand after the closure of the international airport in Bangkok due to the protest and demonstration activities taking place in Bangkok during that time, members generally considered the Administration slow in responding to requests for assistance from Hong Kong residents stranded in Thailand. The incident also revealed that the Hong Kong Special Administrative Region (HKSAR) Government failed to take community sentiments fully into account in formulating policies and measures to facilitate the safe and timely evacuation of Hong Kong residents stranded overseas. Members urged the Administration to conduct a comprehensive review with a view to improving and enhancing the efficiency of the system which sought to provide assistance to Hong Kong residents in distress overseas or involved in major external disasters. They considered that improvements should be made to the emergency response mechanism, including the structure and operation of the system, the respective roles and responsibilities of the relevant bureaux and government departments, and principal government officials' involvement in deciding whether or not to arrange chartered flights to speed up the return of stranded Hong Kong residents.

The Administration said that it acknowledged the public aspirations for a better co-ordinated emergency response mechanism. The Security Bureau would conduct a review to assess whether any adjustment or improvement would be required. The review would focus on identification of measures that would help improve the response time and evacuation plan for emergency response operations outside Hong Kong. The Administration would explore with airlines the possibility of reserving a certain proportion of seats for allocation to specific passengers by the HKSAR Government. The Administration would also



consider establishing a mechanism for making use of Mainland's chartered flights as a possible option.

The Panel was concerned about cases of breakdown of emergency ambulances and the ageing of the ambulance fleet. Members in general considered that the lead time of two to three years for the replacement of aged emergency ambulances was far too long. They considered that the Administration should review the existing procedures for vehicle procurement, so as to shorten the lead time required and expedite the replacement of ambulances. Some members also expressed concern that in the past few years, ambulance replacement had not been planned and carried out in an orderly manner.

The Administration explained that a period of six months was normally required for the preparation of the specifications of requirements of new ambulances, and another six months for the submission, receipt, evaluation and awarding of contracts. Depending on the number of new vehicles to be purchased, it would probably take six months to one year for the suppliers to complete the manufacturing process. Hence, there was not much room for expediting the replacement programme by compressing the time required for the tendering exercise. Nevertheless, the Administration would endeavour to shorten the period for preparing the specifications of requirements. The Administration also advised that it had all along been replacing ambulances in accordance with the resource allocation mechanism, having regard to the actual need and the advice of the relevant departments. When deciding the replacement schedule, the departments concerned would take into account a number of factors including the actual working condition of the vehicle, vehicle age, cumulative mileage and maintenance history.

The Panel was briefed on the progress of implementation of the immigration convenience measures for Hong Kong and Macao residents travelling between the two places. Members noted that it was the consensus of the HKSAR Government and the Macao Special Administrative Region (MSAR) Government that measures should be introduced to enhance immigration convenience for residents of the two places. Regarding the existing requirement for MSAR permanent residents to furnish the Declaration Forms on their arrival at Hong Kong, members asked whether it would be possible to waive this requirement in the long run.

The Administration advised that in the long run, its aim was to waive the requirement for MSAR permanent residents visiting Hong Kong to produce the Declaration Forms. Reciprocally, the Macao side would dispense with the existing requirement for HKSAR permanent residents to fill out arrival/departure cards. The Administration intended to introduce legislative amendments to the Immigration Ordinance to allow Macao permanent residents to visit Hong Kong solely on the strength of their Macao Permanent Identity Cards.

The Panel continued to follow up the problem of youth drug abuse and had discussed with the Administration the recommendations in the Report of the Task Force on Youth Drug Abuse (the Report) and the progress of implementation of the recommendations. Members noted that an inter-departmental working group had been set up to steer, co-ordinate and monitor the implementation of the recommendations of the Task Force on Youth Drug Abuse (the Task Force). Regarding the proposal in the Report for introducing compulsory drug testing, some members cautioned that it might be argued as an interference with human rights, in particular the right to privacy. Some people might even argue that compulsory drug testing would provide excessive powers to law-enforcement agencies (LEAs). For this reason, the Administration should address all possible problems before taking forward any proposals.

The Administration explained that the primary purpose of the compulsory drug testing scheme was to enable early intervention for treatment and rehabilitation, rather than facilitating prosecution. The Task Force fully recognized the sensitive issues and wide implications involved in seeking to introduce compulsory drug testing, particularly from human rights and privacy perspectives. Before the proposal was taken forward, the Administration would publish a consultation paper setting out details of the compulsory drug testing scheme and invite public views on the proposal.

The Panel was briefed on the results of the Administration's study of matters raised in the Annual Report 2007 to the Chief Executive by the Commissioner on Interception of Communications and Surveillance. Members expressed deep concern about how LEAs handled interception products involving information which might be subject to legal professional privilege (LPP). Members considered that LEAs should be mindful of the need to protect LPP in carrying out interception or surveillance operations.

The Administration advised that the checks and balances built into the Interception of Communications and Surveillance Ordinance (ICSO) regime had struck a balance between protecting privacy and LPP, while allowing LEAs to carry out covert operations for the prevention and detection of serious crimes and protection of public security in warranted circumstances. Whenever an application was made to the relevant authority (panel judge or authorizing officer) for a prescribed authorization, the relevant authority would assess whether the conditions for issue of the prescribed authorization as set out in the ICSO were met. Applications for renewal of prescribed authorizations were also subject to stringent requirements.

In addition, the Subcommittee on Police's Handling of Sex Workers and Searches of Detainees formed under the Panel had held six meetings with the Administration. The Subcommittee also received a closed-door briefing by the police on its undercover operations against vice activities and the findings of its internal review on the handling of searches of arrestees in the Lee Tung Street incident.

Finally, I wish to take this opportunity to thank members for supporting the work of the Panel. I also wish to thank colleagues of the Secretariat for all their assistance in our work. Thank you, President.

**PRESIDENT** (in Cantonese): Mr Fred LI will address the Council on the report of the Panel on Food Safety and Environmental Hygiene 2008-2009.

### **Report of the Panel on Food Safety and Environmental Hygiene 2008-2009**

**MR FRED LI** (in Cantonese): President, in my capacity as Chairman of the Panel on Food Safety and Environmental Hygiene (the Panel), I present a report to the Legislative Council on the work of the Panel in the 2008-2009 Session and highlight the deliberations of the Panel concerning food safety.

In view of food incidents in recent years, the Panel had urged the Administration to conduct a comprehensive review on the food safety regulatory framework. The Administration briefed the Panel in October 2008 on the Public Health and Municipal Services (Amendment) Bill 2008 (the Bill), which empowers the Director of Food and Environmental Hygiene (DFEH) to make

administrative orders to prohibit the import and supply of problem food and order a recall of the problem food, provided that the DFEH suspects that the food constitutes a serious hazard to public health. Members were supportive of the Bill and urged its early implementation. The Bill was introduced into the Legislative Council on 5 November 2008 and was scrutinized by a Bills Committee. The Bill was passed at the meeting of the Council on 29 April 2009 and came into operation on 8 May 2009.

In addition, The Panel held three meetings with the Administration to discuss the review on hawker licensing policy, including one meeting to listen to the views from hawker associations and other stakeholders. Some members were of the view that the Administration should have regard to the values of the hawking trade on improving people's livelihood and stimulating local economy, which were particularly pertinent in this time of economic downturn, in the review on hawker licensing policy. In response to members' request, the Administration decided to issue 61 new itinerant (frozen confectionery) hawker licences, thereby increasing the total number of such licences from the existing 27 to 88. Members also agreed that a holistic approach should be adopted by the Administration in formulating hawking policy, having regard to its cultural, economic and social relevance.

The Panel met with the poultry trade and the Administration in October last year to discuss the drastic drop in the daily live poultry supply from about 36 000 in the past to about 10 000 after the expiry of the buyout scheme for the live poultry trade in September 2008. Members considered that the supply of live chickens should be decided by the market, and the Administration should not control the supply. Members also raised concerns about the drastic drop in the supply of mainland day-old chicks from about 450 000 a month in the past to only about 30 000 a month recently.

In respect of the control of vegetables imported from the Mainland, the Panel met with deputations and the Administration on two occasions to discuss the claims from local vegetable traders that some mainland vegetables supplied to Hong Kong came from non-registered vegetable farm under the disguise of a proper label from a registered vegetable collection and processing plant. The Panel also paid a visit to the Man Kam To Control Point in February 2009 to observe the joint operation of the Customs and Excise Department and the Centre for Food Safety of the Food and Environmental Hygiene Department (FEHD) on

the inspection of vegetable vehicles and sampling of vegetables from the Mainland.

With regards to the incident that the FEHD earlier issued letters to some 10 000 market stall tenants whose tenancies would expire on 30 June 2009 and invited them to sign the new aligned tenancy agreements, the Panel held a special meeting on 2 June 2009 to meet with representatives of public market stall tenants and the Administration. Members passed a motion urging the Administration to suspend the signing of the new public market tenancy agreements for one year and to extend the tenancy agreements with stall tenants for one year. In the meantime, the Administration should consult the views of the Panel and public market stall tenants on the terms of the new tenancy agreements and formulate a clear policy on the positioning, functions and subsidization of public markets before deciding on the way forward. In addition, the FEHD should also give due recognition to the status of the partners and assistants of market stallholders under the new market tenancy agreements. The Administration informed the Panel on 9 June 2009 of its decision to suspend the signing of the new public market tenancy agreements for one year until 30 June 2010.

President, I so submit.

**PRESIDENT** (in Cantonese): Ms Cyd HO will speak on the report of the Panel on Education 2008-2009.

### **Report of the Panel on Education 2008-2009**

**MS CYD HO** (in Cantonese): President, I will, in the capacity of the Chairperson of the Panel on Education (the Panel), report on the work of the Panel in the 2008-2009 Legislative Session.

Up till today, a total of 17 meetings totalling 40 hours have been held by the Panel in the current legislative year, during which 138 deputations were received and 24 topics were discussed. Prior to the summer recess of this Legislative Session, four more meetings totalling 12 hours for the discussion of nine topics will be held by the Panel. As the work of the Panel had been set out

in details in the Report, I will only highlight a number of the Panel's major concerns on universities, secondary schools and pre-school education.

In the current Legislative Session, topic of the Panel's major concern on universities is the capital works projects that tie in with the four-year bachelor degree program under the new "3-3-4" system conducted for institutions funded by the University Grants Committee (UGC). A total of 12 capital works projects have to be carried out in the UGC-funded institutions for expanding the current campus space and increasing the campus facilities so as to accommodate the increase in the number of students due to parallel running of the old and new academic systems.

Cost of the 12 projects had increased significantly from the original estimated amount of \$3,400 million as calculated in 2004-2005 to that of \$4,900 million as calculated in 2008. Members requested the Administration to explain the reasons for the substantial increase in costs, as well as which party would be bearing the additional cost of the project.

It was advised by the Administration that adjustment in the estimated cost was due mainly to the substantial price increase in building materials. To ensure that public money is well spent under the current economic downturn, Members welcomed the adoption of contract price adjustment system by the UGC-funded institutions in implementing the capital works projects. Under the contract price adjustment system, payments for the construction contracts could be adjusted upward or downward in accordance with changes in the cost of wages and materials. Contract price adjustment system is adopted so that the risk involved in the capital works contracts could be shared equitably between employers and contractors.

In considering the proposals for each project, Members have taken into account the environmental design adopted for the projects and the impact of the projects on nearby residents. Though the cost incurred for environmental design may be higher, Members considered that the UGC-funded institutions should set an example for environmental friendly construction.

As for secondary schools, the Panel would continue to follow up with the fine-tuning of the proposal on the medium of instruction in secondary schools. In the beginning of this year, the Panel had listened to the views of 28

representative deputations including boards of schools, schools, teacher associations and parent-teacher associations. Most of the parent-teacher associations are in favour of the fine-tuning of the language of instruction so as to allow secondary schools more autonomy in language teaching and junior secondary students more exposure to English in the classroom. Nevertheless, there are concerns from some principals and teachers that the said arrangement would bring about an increase in workload and sharpen the labelling effect among students within the schools.

Members had different views on the fine-tuning proposal. Some Members considered improving the effectiveness of English language teaching as a more direct and effective means of enhancing students' English proficiency. They queried whether using English to teach academic subjects could effectively enhance students' English proficiency. Other Members supported the implementation of the fine-tuning proposal and urged the Administration to co-operate with schools and address the concerns raised by them. To alleviate the concern for insufficient enrolment arising from the declining student population, some Members suggested the Administration to suspend the implementation of secondary school integration policy.

Upon the approval of the fine-tuning proposal on the medium of instruction by the Executive Council in May 2009, a special meeting on the discussion of the final arrangements was immediately convened by the Panel. Members remained concerned that in order to increase enrolment, some schools may not be taking students' abilities and teachers' readiness into account. They would perhaps use English to teach certain science subjects in English extended learning activities classes, thereby affecting students who are inadequate in English proficiency of their learning of the science subjects. Members were also concerned about how the Education Bureau would be monitoring the schools to ensure that they fulfil all the prerequisite requirements before using English as the medium of instruction. Meetings of the Panel have been scheduled to be held again in July 2009 for listening to the views of deputations on the final arrangements for the medium of instruction.

For pre-school education, the Panel has been following up on the Pre-primary Education Voucher Scheme (Voucher Scheme), and had listened to the views of 31 pre-school education institutions and interest groups. It was pointed out by the deputations that the Voucher Scheme has given rise to a lot of problems, such as non-profit-making kindergartens whose tuition fees exceed the

ceiling stipulated by the Government are not eligible to participate; the amount of subsidy granted to full-day kindergarten is less than that of half-day kindergarten; no salary structure that commensurates with teacher qualifications has been formulated by the Administration for kindergartens; no adjustment in the fee remission ceiling for the Kindergarten and Child Care Center Fee Remission Scheme until the 2011-2012 school year; in-service kindergarten teachers are required to obtain qualification of the Certificate in Early Childhood Education in the 2011-2010 school year without any support; and, external and internal assessments are demanded from kindergartens in a hasty manner. In the face of the above problems, educational institutions and parent groups urge the Administration to expeditiously conduct a comprehensive review of the Voucher Scheme, to formulate a post-2012 development blue print and to relax the voucher cap.

Members expressed grave concern on the negative impact on full-day kindergartens and the increase rather than decrease in tuition fees that have to be paid by the low-income families since the implementation of the Voucher Scheme. A motion was passed in the Panel meeting in March this year urging the Administration to set up at once a committee comprising representatives from parents and members of the industry to review immediately the system on subsidy for kindergarten tuition fees, and to establish a remuneration system basing upon teachers' trainings and qualifications.

Members welcomed the response of the Administration to the concerns of the community. In the meeting of the Executive Council on 16 June, it was passed that from the 2009-2010 school year onwards, the fee remission ceiling for Kindergarten and Child Care Center Fee Remission Scheme could be adjusted each year in accordance with the weighted average tuition of the half-day and full-time non-profit-making kindergartens which are allowed to participate in the Voucher Program to ensure the availability of a reasonable number of qualified and moderately priced kindergartens for the choices of needy families. It has also been undertaken by the Administration that review procedures for the Voucher Scheme would be carried out later this year. Members urged the Administration to complete the review expeditiously so that concerns of the Voucher Scheme raised by the pre-primary school sector could be addressed.

President, I would like to thank colleagues of the Secretariat, Members, and officials of the Education Bureau for their utmost co-operation in carrying out the



work of the Panel. It would only be my inadequacies for any shortcomings that should still exist. I so submit.

**PRESIDENT** (in Cantonese): Mr Albert CHAN will address the Council on the Report of the Panel on Welfare Services 2008-2009.

### **Report of the Panel on Welfare Services 2008-2009**

**MR ALBERT CHAN** (in Cantonese): President, in my capacity as Chairman of the Panel on Welfare Services (the Panel), I present a report to the Legislative Council on the work of the Panel in the 2008-2009 Session and would like to highlight several major areas of work of the Panel.

The implementation of the Lump Sum Grant subvention system (LSGSS) remained high on the agenda of the Panel. Members noted that the Lump Sum Grant Independent Review Committee (IRC) released in December last year the Review Report on the Lump Sum Grant Subvention System (the Review Report) and highlighted therein that the LSGSS was worth retaining, while proposing 36 recommendations to improve the LSGSS. Members were advised that the Administration accepted in principle all the 36 recommendations and would take them forward in concert with the welfare sector. The majority of members, albeit their recognition of the work undertaken by the IRC, still remained of the view that the Review Report failed to address the problems arising from the implementation of the LSGSS. At the same time, the Administration had failed to implement concrete measures to resolve the problems in the social welfare sector, for example, the low staff morale, and enhance the monitoring of the operation of all subvented services. The Panel passed a motion urging the Administration to implement concrete measures to resolve the problems concerned and report progress to the Panel regularly.

The Panel also examined the salary adjustment arrangements adopted by subvented non-governmental organizations (NGOs). Regarding the situation in which certain NGOs had not used the additional subventions granted to them since September 2008 in the light of the 2008-2009 Civil Service Pay Adjustment solely on staff remuneration, members held the view that the Administration

should address this problem. The Panel also urged the Administration to take remedial measures and impose a clear condition, such that NGOs receiving additional subventions in the light of any pay adjustment should only use the additional subventions exclusively on staff remuneration.

The Panel was highly concerned with the well-being of the disadvantaged. Members expressed particular concern over the adequacy of the Comprehensive Social Security Assistance (CSSA) standard payment rates for meeting the basic needs of recipients. The majority of members held the view that the day-to-day basic items covered under the CSSA Scheme were incompatible with the present needs. For example, Internet access charges were excluded from the standard payment rates. However, given the students' frequent access to the Internet for doing homework at present, the Administration should recognize that Internet access charges constituted a necessary item under the CSSA Scheme. Members urged the Administration to conduct a comprehensive review of the CSSA standard payment rates expeditiously. In this connection, the Administration indicated that the aspect of Internet access charges could be examined when conducting the next round of the Household Expenditure Survey on CSSA Households.

Moreover, members were also highly concerned with the impact of the financial turmoil on the low-income group. Members noted the rise in the number of street sleepers since the last quarter of 2008. One of the reasons for this was that some street sleepers, who used to work outside Hong Kong, were not eligible for CSSA because they could not meet the requirement of one year continuous residence. Members considered the requirement unreasonable and unacceptable and called on the Administration to conduct a review in this regard and exercise discretion to waive the residence requirement concerned.

The Panel continued to follow up the progress of the provision of subsidized residential care places for persons with disabilities (PWDs). Members held a strong view that the provision of subvented residential care services for PWDs should be expedited to shorten the average waiting time to a reasonable timeframe. In addition, members also expressed concern over the provision of community support services to ex-mentally ill persons. Members urged the Hospital Authority and the Social Welfare Department to enhance communication and co-operation in drawing up discharge plans for patients and

strengthening assistance for patients and their families in respect of rehabilitation services and community resources. Most importantly, the departments concerned should map out the long-term targets of the community support services.

The Panel had convened three meetings in this Session to discuss the proposed amendments to the Domestic Violence Ordinance (the Ordinance). The proposal sought to extend the scope of the Ordinance to include cohabitation between persons of the same sex. Since this proposal had aroused considerable concern of various parties in society, the Panel had received views from nearly 150 deputations and individuals. The Administration assured members that it would carefully and thoroughly take into account the views advanced by various parties in the drafting of the legislative proposal. The relevant bill was tabled to the Legislative Council last week for First and Second Reading and a Bills Committee has been established to scrutinize the bill. I believe the Bills Committee will carefully consider and follow up the matters of concern raised earlier by various parties.

The Panel also noted that the Administration had commissioned a consultant to conduct a review of the delivery mode of the Integrated Family Service Centre. In this connection, the Panel had advanced certain views for the consultant's consideration. The Administration advised that the review was expected to be completed by the end of 2009 and it aimed to report to the Panel on the findings and recommendations of the review tentatively in the first quarter of 2010.

The Panel set up the Subcommittee on Poverty Alleviation (the Subcommittee) in January 2009 to study the policies and measures relating to poverty alleviation. Upon the completion of its work, the Subcommittee will submit a report to the Panel.

President, lastly, I wish to take this opportunity to convey my thanks to the members of the Panel for their participation and in particular, to the Legislative Council Secretariat for providing various forms of support, which have made possible the successful accomplishment of the Panel's work.

Thank you, President.

**ORAL ANSWERS TO QUESTIONS**

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

**Regulation of Person-to-person Telemarketing Calls**

1. **DR SAMSON TAM** (in Cantonese): *President, under the Unsolicited Electronic Messages Ordinance (UEMO) which came into operation in late 2007, members of the public may choose not to receive commercial electronic messages such as pre-recorded messages. Yet, person-to-person telemarketing calls are not regulated by the Ordinance. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints received in each of the past three years by the authorities about person-to-person telemarketing calls, broken down by business nature and type; how they followed up the complaints and the outcome;*
- (b) *whether the authorities will reconsider introducing legislation to regulate person-to-person telemarketing calls; if they will, of the details and the implementation timetable; if they will not, the reasons for that; and*
- (c) *regarding the aforesaid problem, whether the authorities have made reference to and studied the relevant experience of foreign countries, so as to protect the public from the nuisance caused by such telemarketing calls; if they have, of the details; if not, the reasons for that, and whether they will conduct the studies concerned in the future?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, before answering the question, I would like to give a brief account of the background and latest progress of the implementation of the UEMO.

The UEMO, which fully commenced operation on 22 December 2007, regulates the sending of commercial electronic messages, including pre-recorded

messages sent to telephones, messages through short messaging services, faxes and emails. At present, the UEMO does not cover person-to-person telemarketing calls mainly because most business establishments in Hong Kong are small and medium enterprises (SMEs), which rely on this mode of communication as a means of marketing. As such, in drawing up the UEMO, after balancing different views, the Government excluded such calls from the ambit of the Ordinance to avoid affecting the development of legitimate electronic marketing in Hong Kong.

However, the Government has been closely monitoring the situation of person-to-person telemarketing calls. To gauge the impact of such calls on the public and assess the views of the public and the industry, the Office of the Telecommunications Authority (OFTA) has commissioned a public opinion survey and collected views from the industry. The Government is now analysing the views collected and intends to release the results of the two surveys together with the Government's views on what, if any, further action may be required in respect of person-to-person calls after summer.

Separately, the Personal Data (Privacy) Ordinance (PDPO) contains provisions concerning the use of personal data in direct marketing. According to the PDPO, a data user who uses personal data for direct marketing purposes has to cease using that data if the person who is the subject of the data so requests.

My reply to the Member's question is as follows:

- (a) From the full implementation of the UEMO in December 2007 to May 2009, the OFTA handled a total of 9 158 complaints, of which 128 were related to person-to-person calls. Among these 128 cases, 94 involved commercial marketing activities and nine were opinion survey calls. For the remaining 25 cases, the complainants did not provide information on the contents of the calls.

As person-to-person telemarketing calls are currently not regulated by the UEMO, the OFTA does not have the authority to investigate complaint cases relating to such calls. If the use of the complainant's personal data for direct marketing purposes is involved, the complainant can request the caller to cease to use such data for direct marketing purposes under the PDPO. If a call

involves fraud or nuisance, the OFTA would advise the complainant to report the case to the police.

- (b) To gauge the impact of person-to-person telemarketing calls on the public and to assess the views of the public and the industry, the OFTA has commissioned a public opinion survey and has collected views from the industry. The Government is now carefully considering the views of the public and the industry. We intend to release the results of the two surveys together with the Government's views on what, if any, further action may be required in respect of person-to-person calls. The Government will look at various factors, including the right of the public to receive information and not to be disturbed, the scope for enterprises to conduct legitimate electronic marketing activities in Hong Kong and the importance of such activities to SMEs, and so on.
- (c) The OFTA has studied overseas practices in regulating person-to-person telemarketing calls. In Australia, the United States, the United Kingdom and Canada, for instance, laws have been passed and registers established for citizens to choose not to receive person-to-person telemarketing calls. The coverage of each register varies from place to place. For example, in Australia, the United States and Canada, the register does not cover business telephone numbers. Under the United States and Canadian legislation, a company may still call a telephone number which has already been listed in the do-not-call register for person-to-person telemarketing calls if the user of the telephone number has a business relationship with the company or has given prior consent.

Apart from overseas experience, the Government will also take into account Hong Kong's existing legislation and economic situation in deciding whether or not there is a need to take further steps in respect of person-to-person telemarketing calls. We will continue to discuss the matter with the industry and monitor the situation of such calls. After collecting and analysing the views of the public and the industry, the Government will make a decision only after carefully considering the way forward, with a view to protecting the interests of the whole community.

**DR SAMSON TAM** (in Cantonese): *President, my reason for asking this question is that while many people have pointed out that there have been some improvements in certain areas since the commencement of the UEMO in late 2007, the problem of person-to-person telemarketing has turned increasingly serious, especially in respect of mobile telephone customers and users of international roaming services. May I ask, first, whether the situation has actually become worse over the past few years and in what way has the Government been monitoring the problem?*

*According to the Under Secretary, the Government has been closely monitoring the problem of person-to-person telemarketing, and it is mentioned in the main reply that a total of 128 complaints were received. But no yearly breakdown is given. May I know whether the situation has been getting worse? It seems that these complaints cannot be dealt with under the existing legislation. For this reason, the complainants are probably disheartened. And, it must be added that this is only the tip of the iceberg. Since the Under Secretary asserts that they have always been monitoring the problem of person-to-person telemarketing calls, I would like to ask this supplementary question: what has the Government done, what does it intend to do in order to take hold of the situation, and has the situation been getting even more and more serious?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, many thanks to Dr Samson TAM for his question. The 128 cases I mentioned just now were the complaints about person-to-person telemarketing calls handled by the OFTA from 22 December 2007 up to the present moment. This was the total number of such complaints received during the period in question. As for what actions the Government has in fact taken, I can inform Members that since December 2006, the OFTA has been using 20 telephone numbers with no personal data to gauge the number of person-to-person telemarketing calls. We notice that from December 2006 to May 2009, there was an average of less than one telemarketing call for one such telephone number. This tells us that in many cases, the use of personal data should be a reason for the person-to-person telemarketing calls received by the public. In this connection, I have mentioned in the main reply that under section 34 of the PDPO, the complainants can inform the callers that they do not want to receive such telemarketing calls. The callers are required to comply under the law.*

**MR WONG TING-KWONG** (in Cantonese): *President, during the scrutiny of the UEMO in 2007, I already pointed that the nuisance caused by person-to-person telemarketing calls to their recipients would not be any less than those caused by pre-recorded telemarketing calls. At that time, the Democratic Alliance by the Better and Progress of Hong Kong (DAB) put forward an amendment, but sadly, it could not be passed. The Administration then undertook to monitor the problem of interactive person-to-person telemarketing calls, so as to assess whether there would be any need for regulation in the future. May I ask, regarding the consultancy surveys commissioned by the OFTA, when can the findings be released? Besides, do large enterprises make telemarketing calls more often than small and medium enterprises? Or, is it the other way round? What is the ratio concerned?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, Mr WONG has asked when the findings of the consultancy surveys will be released. As pointed out in my main reply, we will release the findings of the two surveys after the summer holidays and report to the Panel concerned. These two surveys cover two aspects, namely, the views of the public and the opinions of the industry. Some time after the summer holidays, around September or October, we will release the findings.

**PRESIDENT** (in Cantonese): Secretary, in his supplementary question, Mr WONG Ting-kwong asked whether there will be any survey findings that can tell us whether person-to-person telemarketing calls are made more frequently by large enterprises, or by small and medium enterprises.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, all relevant statistics will be released in the announcement of survey findings.

**MR CHAN KIN-POR** (in Cantonese): *At present, the most serious problem is that the sale of the lists of telephone numbers is rampant, causing unnecessary*



*nuisance to members of the public. What will the Government do to clamp down on such activities, including the sale of the lists of telephone numbers on the Internet?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, specific provisions on regulating the collection of such data are already found in the existing UEMO. Sections 15, 16 and 17 of the UEMO, which deal with address-harvesting software and harvested-address lists, provide that it is in the first place an offence to supply, use or acquire such softwares or lists. It can thus be said that there is already regulation in this aspect under the UEMO.

As for data privacy, the first and third principles on the collection of personal data as set out in the PDPO provide that: The first principle provides that before collecting the data, the data user must inform the data subject of the purpose for which the data are to be used. The third principle provides that there must be the prescribed consent of the data subject in case there is any change to the original purpose of data collection. Any sale of personal data which is not part of the original purpose of data collection shall constitute a contravention of the third Data Protection Principle under the PDPO, which is punishable on conviction by a maximum fine of \$50,000 at level 5 or by imprisonment for two years and, in the case of a continuing offence, by a daily penalty of \$1,000.

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

**MR CHAN KIN-POR** (in Cantonese): *The Secretary has not answered whether the Government will take the initiative to launch "undercover" operations to combat such rampant sales on the Internet.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, this is the work of law-enforcement agencies. I do not

have any information on this at hand. But I believe that there have been effective enforcement actions and operations against such activities on the basis of the relevant provisions of the two ordinances.

**MR RONNY TONG** (in Cantonese): *President, during the scrutiny of the UEMO in the last Legislative Session, I have urged the Government to give due regard to the importance of respecting Hong Kong people's privacy and their right to be free from nuisance by bringing person-to-person telemarketing calls under the ambit of the ordinance. It is a pity that with the support of the Liberal Party, the Government refused to make any amendments. The Government now talks about two opinion surveys. One is on the views of the public and the other on the opinions of the industry. Will the Government adopt any principle for weighing the findings of the two surveys? What level of public sentiments must the public opinion survey reveal before the Government would decide that rather than listening only to the commercial sector, it should also respect the privacy of Hong Kong people and their right to freedom from nuisance?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *President, the surveys I have referred to are about two types of opinions — the views of the public and the opinions of the industry. When the UEMO was enacted, person-to-person telemarketing calls were not brought under its ambit because the Government wanted to strike a balance between the interests of the two sides. The two surveys launched after the commencement of the UEMO are meant precisely to ascertain the extent of its impact on the public. I believe that the aim of my government colleagues' analyses is also to strike a balance between the interests of the public and the industry. That is to say, we will consider factors from many different aspects.*

**MR RONNY TONG** (in Cantonese): *I believe that the Secretary does not quite understand the main point of my supplementary question.*

**PRESIDENT** (in Cantonese): *Please explain your point clearly.*

**MR RONNY TONG** (in Cantonese): *President, the findings of these two surveys are bound to be conflicting. During the scrutiny of the UEMO in the last Legislative Session, we have already highlighted the conflicts, and it was seen that the Government was biased towards the commercial sector then. My present supplementary question aims to clarify whether the Government will adopt any principle for weighing the findings of the two surveys this time around, that is, how will the Government make a decision in case there are any conflicts between the findings of the two surveys? Will it still listen only to the views of the commercial sector? Or, will it take account of the basic rights and interests of the Hong Kong people? This is my question.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): *If just as what Mr TONG said, there has to be a concrete and scientific principle for weighing the findings, then my answer is we do not have that. We aim to strike a balance between the two sides on the basis of overall interests, rather than any computations based on scientific or artificial data. Our intention is to look at the views of the general public and the industry and then strike a balance. But we do not have any fixed principle for weighing the findings. We adopt an open attitude.*

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

### **Promotion of Street Performances**

2. **MR IP KWOK-HIM** (in Cantonese): *President, under the Summary Offences Ordinance (the Ordinance), it is an offence for any person to play at any game in any public place, so as to obstruct the same or create a noisy assembly therein. Quite a number of members of the public have relayed to me that the Ordinance has hampered the staging of many distinctive street performances. In this connection, will the Government inform this Council:*

- (a) *of the specific reasons for which the authorities had disallowed the staging of street performances in the past three years; and*

- (b) *whether or not it will reconsider co-operating with the District Councils (DCs) and entrusting the latter with the responsibility to co-ordinate the implementation of a pilot scheme on designated zones for street performances, whereby sites in suitable areas across the territory are assigned for staging street performances; if it will, of the details?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, I am grateful to Mr IP for raising the question just now. The objective of the cultural policy in Hong Kong is to create an environment that is conducive to the freedom of artistic expression and creation, as well as a wider public participation.

The objective of the cultural policy in Hong Kong is to create an environment that is conducive to the freedom of artistic expression and creation, as well as a wider public participation in creative cultural activities or performances. On this premise and without any compromise to public safety and causing any nuisances or obstructions to the public, we welcome street performances as a form of artistic performances that may serve to further enrich the city's characteristics. We also appreciate the aspirations of the community in this regard.

- (a) Our laws do not specifically prohibit street performances nor do they provide a definition of "street performances" or "street performers". In general, street performers, like the public at large, must observe the laws of Hong Kong, including, among others, the prohibitions on nuisance, annoyance or obstruction in any public place to people and/or traffic; the prohibitions on noise nuisance; and the prohibitions on objectionable performances of an indecent, obscene, revolting or offensive nature. The relevant legal provisions are set out principally in the Ordinance (Cap. 228), the Noise Control Ordinance (Cap. 400) and the Control of Obscene and Indecent Articles Ordinance (Cap. 390), et cetera. Should any street performance breach any statutory provisions, having regard to the specific circumstances of each case, the police may give advice or verbal warning to the persons concerned and request the persons concerned to stop the performance or institute prosecution in accordance with the relevant laws.

The police do not have statistics on the specific statutory provisions involved in respect of street performances breaching the law over the past three years.

- (b) Given that outdoor performances allow arts enthusiasts to display their artistry and talents, enhance public access to the arts and culture, as well as enriching the cultural atmosphere of the community, we welcome and support such performances.

Hence, the authorities and arts groups organize cultural activities at outdoor venues from time to time. For example, the Leisure and Cultural Services Department held the "Dance Day" in Tsuen Wan in February this year to showcase various forms and styles of dance at the open plaza and foyer of the Tsuen Wan Town Hall, as well as on the footbridge outside the Tsuen Wan Town Hall and at other venues. During the second Huqin Festival of Hong Kong in July, the Hong Kong Chinese Orchestra, together with students of the Hong Kong Academy for Performing Arts and huqin players from overseas will jointly perform in an evening concert at the Piazza of the Hong Kong Cultural Centre. Besides, the Home Affairs Department, in collaboration with the DCs and community arts groups, will organize the "Community Arts Festivals" in the 18 districts from September to December this year, during which outdoor street performances will be held.

We will continue to discuss with the DCs and explore sites that are suitable for staging street performances. We plan to, in collaboration with the DCs, introduce designated areas for staging street performances on a pilot basis by the end of this year, so as to inject vibrancy into the arts and cultural activities in the community.

**MR IP KWOK-HIM** (in Cantonese): *President, I believe you, as President, and the Members present in this Council have frequently seen various forms of street performances in overseas countries. These street performances can display to the fullest extent the vigour, vitality and vibrancy of a place, as well as enhancing the quality of living of all the residents.*

*Having listened to the reply given by the Secretary in this regard just now, I hold that the overall approach taken by the authorities is rather passive because there is a complete lack of stimulus, as members of the public are allowed to put on performances, provided that they do not contravene the Ordinance. The Secretary has only highlighted in the second part of the main reply that the authorities and the DCs will explore this issue on an ongoing basis, with a view to promoting related activities. That said, can further thoughts be given to this area of work? What sort of co-operation is referred to as "co-operation in this regard"? Will additional resources be provided, such that the DCs can really undertake planning and co-ordinating work, as well as making arrangements for the promotion of street performances at appropriate venues in various districts, thereby making this city more enchanting and exciting?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, regarding the co-operation with the DCs, we have all along maintained consultation with the DCs of various districts, including the Central and Western District, the Wan Chai District and the Yau Tsim Mong District, for the purpose of seeking their views on the issue of staging street performances. The views gathered by us and those put forward by Members indicate an overall support for street performances. Notwithstanding this, it is difficult to reach for the time being a consensus on the distinctive and specific details, for example, the identification of appropriate sites. Some Members have also expressed concern over such issues as street management, noises and the approval mechanism. We will continue to have discussions with the DCs concerned on these issues. We hope to reach a consensus with the DCs to designate some pilot sites for staging street performances in nine of the 18 districts in the territory by the end of this year.

As for the implementation details, for example, the determination of appropriate sites in the identification process, whether or not performances will be staged regularly and the form of performances, we note that, after making reference to considerable overseas experiences, auditions are conducted, which means there would be trial performances. On the premise that the street performances we promoted should be characterized by the element of elegance and that no nuisances are caused to the public, we would like to conduct further discussions with the DCs on these details prior to introducing the pilot scheme by the end of this year.

As for the issue of resources mentioned by Mr IP, we will lend continuous support to these activities by utilizing the annual funding of \$300 million provided to the DCs for organizing community involvement projects.

**MRS SOPHIE LEUNG** (in Cantonese): *President, I feel very glad that this issue, which has been discussed for four years or more, is raised in this Council today. Moreover, it is Mr IP Kwok-him, a Member representing the DCs, who proposes this issue.*

*I wish to follow up a remark made in part (b) of the main reply. It reads, "We plan to, in collaboration with the DCs, introduce designated areas for staging street performances on a pilot basis by the end of this year". I have two supplementary questions to put to the Secretary, namely, will the authorities consider inviting a greater number of street performers from overseas or other countries to participate in these activities at venues other than the designated sites? Can the authorities encourage more community groups to organize, as well as assisting in the promotion of, street performances, so as to add the element of diversification to these activities, thereby fostering a more diversified cultural atmosphere, such that members of the public can further experience the sublimation of culture?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I am grateful to the Member for raising the questions. In relation to the first supplementary question, that is, whether or not overseas street arts performers will be invited to Hong Kong, we adopt an open-minded attitude towards this. If a group wishes to invite them to put on performances in Hong Kong, I opine that this would further enrich the overall cultural and arts environment in Hong Kong.

As to the second supplementary question that centres on the participation of community groups, in fact, our street performances mainly rely on the support rendered by community arts groups and the concerted promotional efforts dedicated by community groups and the DCs. I highlighted just now that between September and December, we would organize a series of "Community Arts Festivals" in the 18 districts through the Home Affairs Department, during which outdoor street performances promoted by community groups would be promoted.

**MR LEE WING-TAT** (in Cantonese): *President, every Member has visited such overseas cities as New York, London, Paris or Tokyo. These cities accord community groups or individuals a high degree of freedom to stage street performances. On the contrary, the SAR Government adopts the policy of "sterilizing street arts and culture". Any person who is found playing the violin or harmonica on the street will be driven away within a short period of time by officers of the police or those of the Food and Environmental Hygiene Department (FEHD).*

*May I ask the Home Affairs Bureau whether or not there exist any contradictions among the various Policy Bureaux of the SAR Government in handling or promoting street performances? Because the law highlights the fact that staging street performances actually does not amount to an offence. However, I believe the Secretary may have heard of an incident in which a member of the public playing the violin on the street would be promptly driven away by law-enforcement officers. I have no knowledge of whether or not the Home Affairs Bureau has held any communication with the police or the FEHD on this. If a member of the public plays the violin for a short period of time and attracts an audience comprising 10 to 20 onlookers, will such a situation amount to street obstruction and for that reason, will the violin player have to be driven away? If this is the case, playing the violin for a short period of time is considered to be a contravention of the law, despite the fact that the law suggests otherwise, what approach should be taken to handle such a situation?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I wish to thank Mr LEE for advancing his views. Concerning the examples of staging street arts performances in other countries, various countries have actually made different arrangements for so doing, depending on their respective culture and history. We have made reference to the arrangements put in place in such cities and countries as New York, Singapore and Australia. In fact, when it comes to staging street performances, a series of conditions are imposed. For example, street performers are required to stage their performances at a specific time and location within a designated area and the time of their performances must not exceed a certain limit. Moreover, some countries have put in place a licensing mechanism while in some countries, licence fees are even levied.

In addition, these places and countries attach great importance to whether or not any nuisances are caused by street performances. For that reason, the use



of amplifiers is not permitted at some performance venues. Or, only the use of amplifiers giving a certain volume is allowed. For example, the level of sound generated by an amplifier or that of noises produced must not exceed specified decibels within certain metres of a designated area. Therefore, these places and countries have imposed conditions on staging street performances, rather than allowing complete freedom for everyone to do same at any time and in any place.

Our current policy is that street performances are basically allowed to be staged if no nuisances are caused. Regarding the example cited by Mr LEE just now, police officers attended the scene to have a check on the situation precisely for the reason that the police had received complaints. Such performances will only be discontinued when necessary.

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

**MR LEE WING-TAT** (in Cantonese): *The supplementary question raised by me just now centres on the situation in which anyone playing the violin will be driven away because someone will definitely allege the performer of causing nuisances. Upon hearing a word such as "nuisances", police officers will drive the performer away in any case.*

**PRESIDENT** (in Cantonese): What is your follow-up question then?

**MR LEE WING-TAT** (in Cantonese): *My follow-up question is this: On the one hand, the Home Affairs Bureau would encourage the formulation of cultural policies in Hong Kong. On the other hand, police officers would drive street performers away upon seeing them. In this regard, how will the authorities co-ordinate with the police?*

**PRESIDENT** (in Cantonese): I believe the Secretary has already answered your follow-up question. Let me see if the Secretary still has anything to add.

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I do not have anything to add in particular.

**MR TAM YIU-CHUNG** (in Cantonese): *President, in Tuen Mun and Tin Shui Wai of the New Territories, there is another form of street performances. Those performances are given by local residents (including groups and individuals) in parks or other public places for self-entertainment as well as for the enjoyment of other kaifongs. At the same time, the performers can attain a sense of satisfaction from so doing. However, given the complaints made by someone alleging that the performances cause nuisances and the shortage of venues for these local residents to stage performances, will the Government consider implementing an overall policy? In particular, following the ageing of the population, a considerable number of retired persons and new arrivals actually have a keen interest in staging street performances. In this regard, will the Government formulate policies on the possible provision of sites that are suitable for staging this kind of performances, thereby enriching local cultural activities?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I wish to thank Mr TAM for raising the question. In fact, there is something in common in the question raised by Mr TAM and the one put by Mr LEE, that is, a balance must be maintained while respecting the freedom of creation and staging performances. In other words, street performances should not cause excessive nuisances to nearby residents and the surrounding environment. In this regard, it is highlighted in the plan referred to by me just now that we wish to join hands with the DCs in formulating the plan, so as to minimize the nuisances. After all, street performances are a good thing that can promote arts and culture. However, at the same time, a balance has to be struck, so as not to cause excessive nuisances.

For example, regarding the specific instance that happened in the Tuen Mun Park (the Park) as highlighted by Mr TAM just now, we have in fact identified a total of four locations in the Park, namely, three sites and a platform suitable for constructing a stage, for parties interested in staging performances in the Park to submit applications for use. However, at that time, some performing groups gave their performances at sites other than those designated and so doing caused noise nuisances. For that reason, the performances were discontinued by the police and the action taken was justifiable.

Therefore, I am grateful to Members for raising their suggestions just now. We will definitely join hands with the DCs in ascertaining the most appropriate sites in that district for staging street performances while striking a balance between giving arts performances and causing no public nuisances.

**MS CYD HO** (in Cantonese): *An artist drawing a portrait on the passageway adjacent to an escalator in the Central and Western District without making any noises was advised to leave by law-enforcement officers on the ground that his behaviour had caused obstruction on the street. The authorities highlighted in the first paragraph of the main reply that they will create an environment that is conducive to the freedom of artistic expression and creation. However, when it comes to the present street management, this can by no means be achieved. May I ask the Secretary how the objective of the cultural policy can be communicated to law-enforcement officers, such that they, when managing the street, will not drive street performers away merely because of receiving complaints about obstruction on the street? Moreover, has the Secretary considered amending the law, so as to ensure the public's freedom of street expression and compliance by law-enforcement officers?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I am grateful to Ms Cyd HO for expressing her views and raising the question. Regarding the incident mentioned by the Member just now, at that time, I had also read the related news reports. Law-enforcement officers attended the scene and discontinued his drawing precisely because some members of the public made the complaint that his behaviour had caused nuisances. On this matter, I personally hold that this is improper because the freedom of expression for creation constitutes an important objective of our cultural policy. However, this also depends on the public's perception at the same time. In this regard, I opine that we can step up our public education and promotion through various channels, with a view to calling on every member of the public to join hands in cultivating an environment that is conducive to the freedom of cultural creation.

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

**MS CYD HO** (in Cantonese): *The Secretary only referred to public education. However, my supplementary question relates to how the Home Affairs Bureau will communicate the objective of the cultural policy to law-enforcement officers or whether or not the Secretary has considered further amending the law, so as to give assurance to the public as regards freedom of expression on the street.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I am grateful to the Member for raising the follow-up question. In fact, the existing law provides the freedom of staging street performances to some extent, provided that no nuisances are caused and we have not received a certain number of complaints. However, precisely because the latter situation happened, actions have therefore been taken accordingly. In this regard, we actually have to rely on the co-operation of various parties for the full and continuous implementation of the overall policy on the freedom of creation.

**MR ALAN LEONG** (in Cantonese): *I am aware that when Prof LUNG Ying-tai held office as Commissioner of the Department of Cultural Affairs of the Taipei City Government, some 100 sites were designated as performance venues and licences were issued to those street performers. Will the authorities consider establishing a comparable mechanism?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I wish to thank Mr Alan LEONG for raising the question. We have made reference to the example highlighted by him just now and the issue of licences is one of the ways that we will take into consideration. In addition, there is another approach adopted by Singapore, that is, signing contracts. In fact, these two avenues have their strengths and weaknesses. We will have continuous discussions with the DCs in this regard, with a view to refining the plan, so as to achieve the best balance between artistic creation and non-disturbance.

**MS STARRY LEE** (in Cantonese): *President, many people say that Hong Kong is a cultural desert. In Hong Kong, we have neither street performances nor street artistic works for display. Recently, I noticed that improvements had been made in this regard and I feel glad to hear the Secretary say that discussions will be conducted with the DCs and some sites will be selected by the end of this year.*

*However, at present, considerable problems have arisen in some pedestrian precincts or at other sites designated for staging street performances. I hold that it is not sufficient for the Home Affairs Bureau to conduct discussions with the DCs only on the issue of identifying appropriate sites. Can the Secretary advise Members on how to achieve the policy objective when it comes to street management or law enforcement, in addition to co-operating with the DCs to identify appropriate sites?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): I am grateful to Ms Starry LEE for raising the question. Her question involves the issue of pedestrian precincts and that of noises, which also fall within our scope of consideration because in the course of consultation, the views advanced by some Members and those by the DCs on the feasibility of staging street performances in pedestrian precincts are actually controversial.

In addition, noises are also a matter of concern to Members. For that reason, we will hold discussions with the DCs on matters not limited to the identification of appropriate sites. We also hope to involve the DCs in the entire plan. We have to seek the views of the DCs on a number of details of the plan, first, regarding the identification of appropriate sites. Apart from this, there is another issue of time. When is the best time for staging street performances? The determination of time and sites is then followed by the question of time allocation. All these require the views of the DCs. This is one of the aspects for consideration.

The second aspect relates to the standard of performances. We have made reference to overseas experiences and note that auditions are conducted. In other words, performances are first staged on a trial basis. So doing can ensure a definite artistic standard in the arts performances to be promoted by us. However, when it comes to the practical aspect, we hope to obtain the views of the DCs and the public's participation.

The third aspect pertains to the issue of noise and that of street management. Nuisances caused to an audience on the periphery or the shops in the vicinity should be minimal. In this regard, we wish to obtain Members' views when taking the next step of involving individual DCs in the detailed tackling of the plan.

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

### **Public Assemblies and Processions**

3. **MS CYD HO** (in Cantonese): *President, according to various press reports, as the police had made a wrong estimate of the number of participants in the "great march on 1 July" in 2003 beforehand, insufficient police manpower was deployed to assist the public in participating in the peaceful assembly on that day. Similarly, as the police had underestimated the number of participants in this year's "June 4 Candlelight Vigil", there was insufficient police manpower and members of the public who were on their way to participate in the event were advised by police officers to leave. Moreover, on many occasions following public processions and assemblies, there were significant discrepancies between the number of participants as announced by the police and those by community groups. In this connection, will the Government inform this Council:*

- (a) *how the authorities estimate, before a public assembly or procession is held, the number of police officers to be deployed to maintain order, and of the role of the Central Policy Unit and the Executive Council; what mechanism has been put in place by the authorities to immediately mobilize additional manpower to assist in maintaining order when the actual number of participants turns out to be far greater than expected, and whether the police officers at the scene are under order to advise the public not to participate in the procession or assembly with a view to reducing the number of people assembling; if they are, of the rank of the police officers who make such an order;*
- (b) *whether the police will, on the day when a public assembly or procession is held, carry out aerial video filming and use the video systems in MTR stations to instantly assess the number of participants, so that the authorities concerned can immediately take appropriate traffic measures, such as increasing the frequency of MTR trains to facilitate public participation, or notifying the bus companies to make changes to routes in order to avoid the procession from sharing roads with buses, or opening up more traffic*

*lanes so that the procession will have sufficient room to move forward; and*

- (c) *of the means by which the police calculate the number of participants in assemblies and processions; and the rank of the police officers who make the final verification of the statistics before they are made public?*

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

- (a) The police respect people's right to organize and to participate in processions and assemblies. They will maintain close contact with the organizers of the events concerned and, as far as possible, facilitate the processions or assemblies so as to ensure that public order and the safety of other members of the public will not be affected. In handling public events such as processions and assemblies, the police will make reference to the information provided by the organizers and past experience in handling similar events so as to assess the measures and manpower required for maintaining public order and public safety. The Central Policy Unit and the Executive Council are not involved in the police's work in this area. In addition, the police will also draw up contingency plans to cope with any unexpected situations that may arise, for example, when the number of participants is higher than expected, in order to ensure that public events are held in a peaceful and orderly manner.

If the number of participants of a procession or assembly is higher than expected, the police will, depending on the situation, implement corresponding crowd management measures such as traffic diversion and special crowd flow system, arrange for entry into the venue or access to the starting point of the procession via different routes, and deploy additional manpower to render assistance. The police will also liaise with the organizers where special circumstances so warrant, for example, suggesting to the organizers the use of nearby locations to accommodate participants of the event, and so on. The police's main responsibility is to safeguard public order and public safety. Neither the department nor the responsible police officers

take any stance in relation to individual assemblies or processions, and they will not advise the public not to participate in such assemblies or processions.

- (b) Depending on the need of the situation, the police will make use of the closed circuit television systems (CCTVs) in the MTR stations, CCTVs installed by the Transport Department (TD) for traffic monitoring and temporary CCTVs installed by the police as required for crowd management purpose, for assessing the movement of people participating in the processions or assemblies as well as the public order situation so that they can implement crowd management measures and make manpower deployment accordingly. At present, the police do not carry out aerial video filming for their work in this respect.

When large-scale public assemblies or processions are held, the police will liaise closely with the TD on traffic arrangement. The Emergency Transport Co-ordination Centre of the TD will monitor the traffic and transport situation in the vicinity of the venue so that, where necessary, it will co-ordinate with the departments concerned, including the police, and the organizations concerned in the implementation of appropriate contingency measures for traffic and public transport services. Examples include temporary road closure and re-routing of bus and minibus routes with a view to facilitating members of the public to take part in the events and making available space for the events. Bus companies and the MTR Corporation will also be asked to increase the frequency of transport services and adjust the locations of bus stops so as to clear the crowd participating in the events as quickly as possible.

- (c) In the course of public assemblies and processions, the police will assess the number of participants to facilitate the implementation of appropriate crowd management measures as well as contingency measures for traffic and public transport services, and to arrange for flexible deployment of manpower in order to ensure the maintenance of public order and the protection of people's safety.

During large-scale public assemblies, the police will observe from different locations. In general, the police will estimate the number



of participants of an event on the basis of the estimated capacity per square metre of the venue. As for processions, the police will set up observation points along the procession route. The number of participants passing by the observation points will be estimated. With reference also to the duration of the procession, an estimate will be made of the number of people passing through various observation points. As a general arrangement, the most senior police officer in charge of an operation of crowd management is responsible for verifying the total number of participants of the event.

**MS CYD HO** (in Cantonese): *President, in 2003, the former Secretary advised that only those people coming out from the Victoria Park would be counted, which caused the Victoria Park to be crammed with people. Actually, many members of the public joined or left the procession along the route. Could the Secretary announce the locations of the observation points set up by the authorities so that members of the public who would like to be counted by the Government can walk past these observation points, thereby preventing the Government from washing down the public's message of dissatisfaction towards the Government through the approach of providing obscure figures?*

**SECRETARY FOR SECURITY** (in Cantonese): *President, I do not have the information on these observation points in hand, but I can say that the police would formulate a set of action plan whenever they take such actions. I will have to check with the police to see whether there is any need to announce these observation points in advance or whether it is in line with their security principles. I can provide Ms Cyd HO with a written reply. (Appendix I)*

However, I have to say something here. I have met with many members of the public who express that whenever such assemblies and processions are held, organizers would definitely exaggerate the figures while the police would definitely understate them. I have also come across many related comments, but what is the truth? I believe the best thing to do is to listen to the views of some academics or neutral individuals.

President, if you so allow, I would like to quote from an article I have recently come across. It was published in *Ming Pao* on 17 June and was written

by Mr Paul YIP and Mr FU King-wa, both of whom are respectable actuaries. The article is about figures recorded from the June 4 assembly this year. As Ms Cyd HO said in the supplementary question that the police intentionally compressed the number of participants, that is, "understating the number". One paragraph of the article reads: "The police estimated that the number of participants of the June 4 assembly was 62 800, while the organizers reported that there were 150 000, and many people would reckon, without giving it much thoughts, that the figure provided by the police was an underestimation, then there are some academics who estimated that the figure should be somewhere between 70 000 and 130 000." The two actuaries who wrote this article did not participate in the head-counting of this assembly. They said, "We did not do the head-counting this year, but by common sense, bearing in mind that the areas of the Victoria Park and the green are about 42 000 square meters, for an assembly of 150 000 participants, each square meter would have to accommodate 3.6 persons on average." "This is basically impossible. For every square meter, based on the average body height of the people of Hong Kong, and assuming that the participants sat side by side and were five centimetres apart the one sitting next to them, with a space of 10 centimetres apart in front of and behind, the maximum accommodating capacity of each square metre should not exceed 2.2 persons. Therefore, this figure of 150 000 is questionable. It is indeed surprising to find some people making a public remark that 150 000 was a credible figure by sheer intuition. Why would people come forward to query the estimation made by the police but are not brave enough to openly request the organizers to provide evidence for the head-counting?"

(Mr LEUNG Kwok-hung rose)

**PRESIDENT** (in Cantonese): Secretary, please stop for a moment. Mr LEUNG.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I have also read this article. May I ask the Secretary to clarify one point? Did that academic provide the number of man-times? Because it is different with man-times, you should know it from studying mathematics. I ask for a clarification.*

**PRESIDENT** (in Cantonese): Mr LEUNG, you ask the Secretary for a clarification .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *It is taken out of context .....*

**PRESIDENT** (in Cantonese): Mr LEUNG, you sit down first, is it to clarify .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *It is very disgraceful to take things out of context .....*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, you sit down first. We are not holding a debate now .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *I would not tolerate disgraceful conduct to occur in this place.*

**PRESIDENT** (in Cantonese): We are not holding a debate now. When you ask the Secretary to make a clarification, the Secretary will decide whether or not he will make a clarification. Secretary, please continue.

**SECRETARY FOR SECURITY** (in Cantonese): Ms Cyd HO's main question is: "According to various press reports, the police had previously made a wrong estimate of the number of participants." Therefore, I always say that different criteria are adopted by the organizers and the police in calculating the number of participants, and the figures they provide never agree with each other. As such, members of the public may think that one party is overstating the number while another is understating it. Why did I have to quote from this article? It is because two academics have made some relatively fair and objective comments without insisting on their own stance. I wish to quote from some articles in order to respond to Ms Cyd HO's supplementary question. "Why do people

come forward to query the estimation made by the police but are not brave enough to openly request the organizers to provide evidence for the head-counting? Does it mean that the media of Hong Kong behaved in a way similar to that of the United States, with liberal bias?" At the end of the article .....

(Mr LEUNG Kwok-hung rose)

**MR LEUNG KWOK-HUNG** (in Cantonese): *Sorry, he refused to provide a clarification. I asked him .....*

**PRESIDENT** (in Cantonese): Secretary, please sit down first.

**MR LEUNG KWOK-HUNG** (in Cantonese): *In the article he quoted from, is the associate professor talking about man-times or is he not?*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Even if you drive me out of this Chamber, I have to make my point because he blatantly makes use of an academic's article to give a reply to my question.*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *Instead of just insulting me, he is also insulting a gentleman!*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down.

**MR LEE WING-TAT** (in Cantonese): *President, may I ask the Secretary why he did not quote from the scientific survey conducted by Robert CHUNG of the University of Hong Kong (HKU)? He said that there were 100 000 participants, but he quoted an academic who had not participated in the procession. May I ask him to clarify why he only quoted from one of the surveys selectively without quoting from the most renowned academic in Hong Kong, Mr Robert CHUNG? May I ask him to clarify this?*

**PRESIDENT** (in Cantonese): Please take your seat. Members, I have stated repeatedly that this is not a debate session. Members may not agree with the response provided by the Secretary, but according to the Rules of Procedure, when a public officer speaks, Members may request the public officer to clarify the content of his speech but the decision of whether or not a clarification will be made rests with the public officer himself. If the public officer decides not to make a clarification of the relevant part as requested by Members, he may continue to deliver his speech. We should not turn the question time into a debate.

**MR LEE WING-TAT** (in Cantonese): *I ask for a clarification because he spent almost six minutes to quote from an academic's article. May I ask the Secretary why he did not quote from Prof Robert CHUNG of the HKU with a few decades of experience as saying that there were 100 000 participants?*

**PRESIDENT** (in Cantonese): Mr LEE Wing-tat, your supplementary question has gone beyond requesting the public officer speaking in this session to make a clarification. Members, please wait for a while.

Secretary, as there is a time limit to this question, I therefore consider it inappropriate for the public officer responding to quote extensively from an external article. As the article is already published, I think the Secretary can simply bring it to the attention of Members so that they can read it on their own. As considerable time has been spent just now on the reply to this supplementary question, I think we should allow other Members to ask supplementary questions. Mr Jeffrey LAM.

(Ms Cyd HO rose)

**PRESIDENT** (in Cantonese): Ms Cyd HO, which part of your question has not been addressed by the Secretary?

**MS CYD HO** (in Cantonese): *Just now, I asked the Secretary whether or not the locations of the observation points will be published so that members of the public who would like to be counted can be included.*

**PRESIDENT** (in Cantonese): I believe the Secretary has already given a reply.

**MS CYD HO** (in Cantonese): *The implication therein is to publish them before 1 July. Will the Secretary publish them before 1 July?*

**PRESIDENT** (in Cantonese): The Secretary has already said that he has to work out with the police to see whether it is appropriate to publish them in advance.

(Mr LEUNG Kwok-hung rose)

**MR LEUNG KWOK-HUNG** (in Cantonese): *You do not have to make a ruling against me, I would like to ask him whether he refuses to make a clarification. It is as simple as this.*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, this is not your question time. Please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I asked him to make a clarification. Instead of giving a clarification, he only went on reading from that article.*

**PRESIDENT** (in Cantonese): This is not yet your turn to ask a question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *I am asking whether or not he will make a clarification. President, you may reduce my speaking time later. This motion of mine ..... Emily LAU, do not always say that I have delayed your speech. This Council is one with dignity. When I asked whether he would make a clarification, he might refuse but he must not go on reading from other sources. Do not take me as a fool, I have also read the Rules of Procedure. He may say that he will not make a clarification, but did he regard himself as having clarified his point after reading from that article? In that case, did he make a clarification? He may refuse to make a clarification.*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down. I believe you have made your point.

**MR JAMES TO** (in Cantonese): *President, May I ask the Secretary to clarify whether the article he read is written by the only academic who has expressed opinions on this incident?*

**PRESIDENT** (in Cantonese): I believe whether or not a particular article is the only article which expresses opinions on a particular issue is an objective fact. Regardless of whether it is a Member or a public officer who is speaking, there is no need to quote from all the articles which have expressed opinions on a particular issue. I believe Members and the public can judge for themselves whether or not the article quoted by the Secretary is biased or comprehensive.

(Mr Ronny TONG rose)

**MR RONNY TONG** (in Cantonese): *A point of order. President, whether this question .....*

**PRESIDENT** (in Cantonese): Mr James TO, please sit down. Mr TONG, what is the point of order?

Mr TO, you may sit down first because Mr Ronny TONG has raised a point of order.

**MR RONNY TONG** (in Cantonese): *President, I hope you would make a ruling on this: when Members raise questions in the Legislative Council, are they questioning government policies or facts? Or, are public officers there to make comments? Can you please clarify this point?*

**PRESIDENT** (in Cantonese): Mr TONG, just now, I allow the Secretary for Security to quote articles to illustrate his views because Ms Cyd HO has made an allegation in her question, as she reckoned that as the police had failed to make an accurate head-count and to truly reflect the actual number of people taking part in such activities, thereby preventing the Administration from receiving the requests from the public on some matters, for this implies .....

**MR RONNY TONG** (in Cantonese): *Did Ms HO make an allegation or ask him to comment?*

**PRESIDENT** (in Cantonese): Mr TONG, please sit down. I think as the question raised by Ms Cyd HO carried this implication, so if the Secretary believed that making a clarification on this question would be helpful in answering Ms Cyd HO's question, I think he could do so.

**MR JAMES TO** (in Cantonese): *President, what you said just now appears to be an objective fact. However, I don't know whether there is only one article stating objective facts. Could you ask the Secretary for a clarification? President, unless you consider this public knowledge, and you have read many such articles, and may be I have not read as many! My request for clarification is .....*

**PRESIDENT** (in Cantonese): Mr TO, please sit down. What I can ask or suggest the Secretary to consider clarifying is whether his words carried an



implication, that the article he had quoted was the sole written comment made by those authoritative academics. Secretary, please reply.

**SECRETARY FOR SECURITY** (in Cantonese): President, I have not seen all the articles. This is one of the articles that I have seen.

**MR JEFFREY LAM** (in Cantonese): *President, I wish to ask the Secretary through you what plans do the police have regarding the measures to take in properly managing the flow of the procession on 1 July?*

**SECRETARY FOR SECURITY** (in Cantonese): President, the police will take corresponding measures on control of the crowd in accordance with the actual situation of the relevant activity. Such measures will include temporary road closures in the areas of Causeway Bay, Wanchai and Admiralty, affecting Causeway Road, Yee Wo Street, Hennessy Road and that part of Admiralty Road heading towards Wanchai and Admiralty. Road closures and traffic re-routing measures will re-route buses and minibuses running on affected roads. Moreover, measures will be taken to effect a uni-directional pedestrian traffic while arrangements will be made for members of the public to go to the starting point of the procession via different routes. And, organizers will be allowed to make use of the locations close to the starting point to accommodate participants of the procession.

On the material day, the Emergency Transport Co-ordination Centre of the Transport Department will closely monitor the actual traffic and public transport condition in the vicinity of the procession route, liaise with the traffic control centre to properly adjust the timing of the traffic lights, and ask the bus companies and the Hong Kong MTR Corporation to increase the frequency of the transport services when necessary, in a bid to relieve traffic jam and clear the crowd participating in the event as quickly as possible. Based on the experience of the police in co-ordinating large-scale public activities, the police are confident of properly managing the procession to be staged on 1 July this year. The police will work in close liaison with the organizers and the monitors deployed by the organizers in order to ensure that the procession could be conducted in a safe and orderly manner.

**MR LEE WING-TAT** (in Cantonese): *President, obviously, what the Secretary quoted was just one of the analytical articles written by the academics. Just now, I could not quite understand whether the area he mentioned includes the passages and has taken into account the flow of people mentioned by LEUNG Kwok-hung. May I ask the Secretary whether he has read the findings of the survey conducted by Robert CHUNG, an academic of the HKU who conducted surveys on almost all assemblies and processions held over the past decade or so? Why did the Secretary not quote the comments made by Mr CHUNG in quoting the comments of academics? Besides, does the Secretary know that Mr CHUNG's conclusion is there should be at least 100 000 participants in the assembly, which represents a difference of as much as almost 80% compared with the number of 60 000 provided by police?*

**SECRETARY FOR SECURITY** (in Cantonese): *President, much as I respect Prof Robert CHUNG's academic standard, it seems that he has not written about it this time. He has only conducted a survey, and I noted his comment that there were 100 000 to some 130 000 participants. As I said just now, the figures provided by the organizers and the police never agree with each other. Members of the public commented to me that we must have "understated the number" while the organizers must have "overstated the number". I also noticed that after 2003 — I did some researches after I had gone back last night — after 2003, and starting from 2004, some academics began to conduct surveys on their own initiative after each and every large-scale assembly. For example, in 2004, the then organizer said there were 82 000 participants, while the police estimated that there were 48 000 participants; back then, the Department of Statistics and Actuarial Science of the HKU conducted a survey and concluded that there were 51 000 participants. In 2005, the organizer — this is about a 4 June rally — advised that there were 40 000 participants, while the police estimated that there were 22 000 participants, and it was pointed out in a survey conducted by the HKU that there were 36 000 participants, which was a figure just along the medium line, based on the participant density of only 2.81 persons per square meter.*

This year, the organizer said there were 150 000 participants, while the police estimated that there were 62 800 participants. The Director of the Social Sciences Research Centre of the HKU said there were 70 000 to 100 000 participants, the Public Opinion Programme of the HKU advised that there were 108 000 to 130 000 participants, and a senior lecturer of the Department of

Statistics and Actuarial Science of the HKU said there were less than 100 000 participants.

I have also done some researches on the processions held on 1 July. In 2003, the organizer said there were over 500 000 participants, while the police estimated that there were 350 000 participants, and findings of the survey conducted by Prof CHUNG suggested that there were 429 000 to 500 000 participants. In 2004, the organizer said there were 530 000 participants, which was a greater number than that of 2003, and the police estimated that .....

**MR LEE CHEUK-YAN** (in Cantonese): *President, if we continue to "dance around the question" like this, no other Member will be able to raise any question. If he has prepared the figures, he could simply provide them to us in writing. I think he is avoiding Members' questions by doing so.*

**PRESIDENT** (in Cantonese): Secretary, five Members are still waiting for their turn to ask questions.

**SECRETARY FOR SECURITY** (in Cantonese): Let me state one more figure. In 2004, the estimation made by Prof Robert CHUNG on the number of participants was 180 000 to 200 000, which represents a big difference compared with the number of 530 000 as claimed by the organizer but was very close to the estimation of 200 000 participants made by the police. In recent years, in particular, findings of surveys on the processions held on 1 July conducted by independent organizations were very close to the figures released by the police. President, I will not take up any more of Members' time.

**DR MARGARET NG** (in Cantonese): *President, members of the public participate in processions in order to stage a protest to voice their dissatisfaction. This is the objective they wish to achieve. May I ask the Secretary how many people have to participate in processions before the Government will think that it has to be mindful of the issues about which the public are dissatisfied? If such a number exists, it would be better for the Secretary to state it and tell us how the*

*counting is done, so that there will be adequate participants in the procession on 1 July this year to meet this number.*

**PRESIDENT** (in Cantonese): Dr NG, I believe this supplementary question of yours has overlapped in many ways with the fifth oral question later.

**DR MARGARET NG** (in Cantonese): *President, may I ask whether Members have the freedom to raise supplementary questions in any question? The issue under discussion is not whether the same supplementary question may be raised in the context of the next oral question but whether we can raise this supplementary question in the context of this question.*

**PRESIDENT** (in Cantonese): Dr NG, your supplementary question is: How many people have to take to the street before the authorities will face the public's aspirations squarely? This has overlapped with the fifth oral question later.

**DR MARGARET NG** (in Cantonese): *President, I understand. This was originally the case. However, the replies of the Secretary just now have suggested time and again that the calculation method adopted by the organizers were not reliable, and so ..... the police ..... what he meant to do was only to make the public think that those organizers were not credible, and so their processions were not justified. President, I only raised this supplementary question in the light of this response of his.*

**PRESIDENT** (in Cantonese): However, I could not make out that this was what the Secretary meant. Please repeat your supplementary question.

**DR MARGARET NG** (in Cantonese): *President, other Members may have heard it like this, so .....*

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

**DR MARGARET NG** (in Cantonese): ..... *that was why they reacted so strongly on this matter.*

**PRESIDENT** (in Cantonese): Secretary, what is your response?

**SECRETARY FOR SECURITY** (in Cantonese): President, the Government highly respects all the views received, be they expressed by a small number of people or a large number of people. Besides, instead of listening to public views only when the number of participants in the relevant processions have reached 150 000, 200 000 or 500 000, we will surely review the relevant issues. Actually, the Government highly respects the views expressed on every occasion when members of the public take to the street.

**MS EMILY LAU** (in Cantonese): *President, the Secretary mentioned the number of participants in the 4 June rally just now. I am afraid he might also have noticed that his former colleague Lily YAM called the radio station to lodge a complaint against them.*

*President, may I ask the Secretary how many people does he estimate will participate in the procession to be held on 1 July? Now the entire society is boiling over with concern, and the disciplined forces have also wanted to stage rallies as well. President, I read from the newspaper last week that government sources estimated that there will be at least 100 000 participants. However, should this number be adjusted upward now; and how many policemen will be deployed? Besides, the Government should strictly refrain from asking members of the public not to participate in the procession. The Secretary did not provide any reply in this regard. The Government should never put out the reason that it will be too crowded to ask members of the public not to participate in the procession and to stay away from it. The authorities should strictly refrain from doing so. President, what is the number of participants estimated by the Government at present?*

**SECRETARY FOR SECURITY** (in Cantonese): President, at present the police have received six notifications from organizers indicating their intention to organize processions on 1 July; and among these processions, three of them will

be held in the afternoon on that day, with the starting point being at the Victoria Park. According to the information provided by the organizers of these three events, it is estimated that there will be 50 000, 20 000 and 20 000 participants respectively. In the meantime, it is neither possible nor necessary for the police to make any estimation. As long as the organizers have told us the number of participants, we will assess whether these numbers are accurate, or we may make reference to previous experience. For example, if they had told us that there would be 50 000 participants but it turned out that there were 100 000 or only 30 000, we would make manpower deployment and preparations then. Now, Ms Emily LAU has requested me to say whether or not there will be 100 000 participants, however, I really cannot provide any reply.

**MS EMILY LAU** (in Cantonese): *President, my supplementary question is: In the light of the present situation in society, with public sentiments escalated to such an extent, have the authorities made an estimation of the number of participants in the procession? The authorities told WEN Jiabao in 2003 that there would be 30 000 participants in the procession, but it turned out that there were 500 000 to 600 000 participants. How many participants will there be this year? Does it mean that the authorities just "could not care less"?*

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

**SECRETARY FOR SECURITY** (in Cantonese): President, as I said just now, we will deploy manpower according to the information provided by the organizers and our past experience in order to maintain order on that day and to protect public safety.

**MR LEE CHEUK-YAN** (in Cantonese): *As I am a member of the organizer responsible for "providing the number", I am very dissatisfied with the police for having "understated the number" all along. Just for the candlelight vigil held in memory of the 4 June incident this year alone, President ..... Secretary, you are also smiling. You know that you are bound to be caught this time. (Laughter) Why? Secretary, just now you said that John BACON-SHONE just came up with the figure by watching the footage of Cable Television without conducting*

*any survey; and neither was Paul YIP's article based on any survey. The only person who really conducted a survey is Robert CHUNG. He said there were 108 000 to 130 000 participants. Taking 108 000 participants as the basis of calculation, there is a difference of about 80% compared with the figure of some 60 000 participants provided by the police; and if 130 000 participants is taken as the basis of calculation, the difference is almost one fold. When I said there were 150 000, how did I come up with this figure? I have also included all the corridors and passages besides the main venue, because even the corridors and passages were really crammed with people this time. However, the police have asked ..... Secretary, you have said here in this place that the authorities will not ask members of the public to leave, but according to a complaint I received, the police had asked members of the public to leave the Victoria Park. Therefore, it is not true for the police to say that they did not ask members of the public to leave. Just by looking at the entire venue of the Victoria Park alone, will the Secretary admit that the police was telling a blatant lie by intentionally "understating the number" in estimating the number of participants in the candlelight vigil in memory of the 4 June incident held this year, in order to bring about a political consequence, such that the "number reported" to the Central Authorities will be smaller? Will the Secretary admit that this is the truth? After reading the "numbers reported" by academics, does the Secretary agree that the police intentionally understated the number of participants considerably?*

**SECRETARY FOR SECURITY** (in Cantonese): I definitely do not agree with this accusation. The police have adopted its established approach in assessing the number of participants on that day, and it simply has no motive to understate the number of participants.

**MR LEE CHEUK-YAN** (in Cantonese): *President, I have asked the Secretary just now why there is such a big discrepancy between the figures provided by the two academics ..... and the figure provided by the academic, Robert CHUNG. Does he admit that the number of participants has been understated considerably?*

**PRESIDENT** (in Cantonese): Mr LEE, the Secretary has answered your supplementary question. Even if you do not agree, we should not go on debating about it.

Members, we have spent more than 27 minutes on this question. I think we have made up for the time spent on dealing with the points of order and the request for clarification just now.

Fourth question now.

### **Licence Fees of Food Businesses**

4. **MR TAM YIU-CHUNG** (in Cantonese): *President, as the licence fees of food businesses in different districts are at present still determined in accordance with the fee levels set respectively by the former Provisional Urban Council and the former Provisional Regional Council, the annual licence fees of various types of food businesses in the New Territories exceed the fees concerned for the food businesses with premises of the same size on Hong Kong Island and in Kowloon by nearly 40% to 100%. In this connection, will the Government inform this Council whether:*

- (a) *it had reviewed in the past three years the fee charging policies and fee levels for food business licences across the territory; if it had, of the outcome; and*
- (b) *currently it has any plan to reduce the licence fees of various types of food businesses in the New Territories to align them with those of food businesses on Hong Kong Island and in Kowloon, so as to enhance the fairness of the fee charging policies and reduce the operating costs of food businesses in the New Territories; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, under the existing legislation, operators of food premises are required to obtain food business licences or permits from the Food and Environmental Hygiene Department (FEHD), restaurants, food factories, bakeries, frozen confection factories, siu mei and lo mei shops and fresh provision shops, and so on. The FEHD also issues permits to some qualified shops for the sale of restricted foods including non-bottled drinks, Chinese herb tea, milk beverage, frozen confections, and so on.



The overall fee levels of food business licences and permits are set on a full cost recovery basis.

In general, there are currently three charging bases for food business licences. First, fee is charged according to the floor area of the premises. The larger the floor area, the higher the licence fee is. Such premises include restaurants, food factories, bakeries, frozen confection factories, milk factories and factory canteens, and there are 19 bandings based on the floor area of these premises. Using restaurants as an example, there are two types of licences, namely General Restaurant Licence and Light Refreshment Restaurant Licence. For the General Restaurant Licence, restaurants with floor area of 100 sq m or less to 200 sq m have to pay an annual licence fee of \$2,520 to \$9,050; premises with floor area over 200 sq m to 500 sq m have to pay an annual licence fee of \$5,650 to \$24,605; and premises with floor area over 500 sq m have to pay an annual licence fee of \$13,860 to \$258,870. For the Light Refreshment Licence, restaurants with floor area of 100 sq m or less have to pay an annual licence fee of \$1,810 to \$3,690; restaurants with floor area over 100 sq m to 250 sq m have to pay an annual licence fee of \$2,270 to \$8,355; and restaurants with floor area over 250 sq m have to pay an annual licence fee of \$4,960 to \$185,250. As for cold stores, there are only 10 bandings, ranging from the smallest of 200 sq m or less to the largest of 5 000 sq m or more. The annual licence fee ranges from \$7,520 to \$258,870.

Secondly, fee is charged according to the number of types of commodities sold, which is applicable to fresh provision shops. The fee is charged according to the number of types of commodities (including beef, pork, mutton, fish, poultry and reptile) for sale. For every extra type of commodity sold, the fee to be paid will be doubled. However, a ceiling is set for such licence fee. The aggregate fee will not exceed the fee for four commodities even if the licence permits the sale of more than four commodities. Such licence fee ranges from \$3,600 to \$19,760.

Thirdly, fee is charged at a fixed rate irrespective of the floor area of the premises or the number of types of commodities sold. This classification includes siu mei and lo mei shop licences as well as restricted food permits. The licence fees of siu mei and lo mei shops are \$2,790 for the urban area and \$3,825 for the New Territories, while those of restricted food permit are \$540 and \$755 for the urban area and the New Territories respectively.

There are a total of about 26 000 premises holding food business licences or permits in Hong Kong, with about 60% of them located in the urban area and 40% in the New Territories.

The current fee levels for food business licences were determined by the former Provisional Urban Council and the former Provisional Regional Council on a full cost recovery basis. Costs included staff cost, transportation, accommodation and administration overhead expenses, and so on. As the two former Provincial Municipal Councils, which operated separately, had different costing bases, there had always been some disparity of food business licence fee levels between the urban area and the New Territories.

In 1998, in the light of the economic environment at the time, the former Provisional Urban Council decided to adjust its licence fees downwards by 30%, while the former Provisional Regional Council chose to freeze its licence fees. Thus, the disparity in licence fee levels between the urban area and the New Territories has become greater. As the food business licence fees have remained frozen, the situation in which fees for the same types of food business licences in the New Territories are higher than those in the urban area persists.

In the long run, we consider that the licence fees for food businesses in the urban area and the New Territories should be aligned. The FEHD has been exploring the relevant options. As the licence fees for food businesses have remained frozen since 1998, if the licence fees for food businesses in the urban area and the New Territories are aligned, upward adjustments of varying degrees will probably be needed for the licence fees of all kinds of food businesses across the territory in accordance with the full cost recovery principle. With the 30% reduction of food business licence fees in the urban area in 1998, it has all along remained at a relatively low level, and there may be a larger upward adjustment to the licence fees of food businesses in the urban area in the event of alignment. However, in paying heed to principles when we consider the issue of licence fees, we should not overlook actual circumstances. In the light of the prevailing economic circumstances, we consider that it is not an opportune time to put forward the fee alignment proposal. In fact, as part of the new round of relief measures unveiled by the Financial Secretary on 24 May this year, licence fees of food and beverage businesses will be waived for one year.

In our opinion, the licence fees of food businesses in the urban area and the New Territories should be aligned in the long run. We will assess the feasibility of the alignment of fees from various perspectives. While adhering to the cost

recovery principle in the review and revision of the fees, we will also endeavour to take into consideration the affordability and acceptance of the business operators, with a view to minimizing the potential impact brought about by the alignment of fees.

**MR TAM YIU-CHUNG** (in Cantonese): *President, can the Government take a look at whether the licence fees for food businesses in the New Territories are in excess of costs rather than recovering costs? Can the Government give us the figures in this respect? If the fees are really in excess of costs, should the licence fees for food businesses in the New Territories be lowered in the first place?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): In respect of costs, we do not have at hand the data for 2008, and also, they are not computed on a yearly basis. If we have such data, we can of course tender them to Members for reference.

However, Members should consider that basically, many licence fees have been exempted this year and do not need to be paid. We will review the entire mechanism in due course. Moreover, we are also aware that the so-called "cost recovery" only refers to the cost of issuing licences instead of regulating the costs for the industry.

Therefore, what is fair and acceptable to the industry? It can of course only be achieved after extensive consultation and research.

**MR TOMMY CHEUNG** (in Cantonese): *Although this main question is raised by Mr TAM Yiu-chung, I have in fact been dogged by the industry for the underlying reason within this decade or so. I of course fully agree with the Secretary's main reply just now because I was a Member of the then Provisional Regional Council, and this motion which was passed was proposed by the Liberal Party.*

*President, we surely are not to conduct a debate today because the Financial Secretary has already waived the licence fees this year. I would like to ask the Secretary, why is it that every time we discuss fee alignment, the authorities will adjust the lower fees upward rather than bring down the higher ones?*

*Also, President, I would also like to seek an explanation from the Secretary. In his earlier main reply to Mr TAM Yiu-chung, he expressed that the authorities computed costs on the basis of licence fees, but I do not find this convincing. Why? This is because once the licence is issued, the same fee will be collected every year, and this may last for two decades or one decade. Nonetheless, further examination and approval by a group of people is not necessary, and a renewal of the licence will suffice. Why then is this fee necessary if it is purely an annual renewal of the licence? If the authorities say this is for cost recovery, the fee should not be collected again after the first year as that is not a new application.*

*Thus, President, I wish the Secretary will look into the matter in detail after the meeting. Just as he said, there is no need for a debate now because the Financial Secretary has waived this year's licence fees, to which I am very grateful. However, in the long run, if there is to be an alignment, can we consider reducing the higher fees? The other question is, is this cost recovery? Members can have another discussion in future.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I agree that when the definition for cost recovery is discussed, there are numerous perceptions and arguments. As we see it, it concerns how the present 26 000 licences should be fairly distributed. Using the costs of the entire registration process or that of the office for computation could be possible ways.

However, we have also considered the number of new and old licences among these 26 000 licences. Should the fees for new licences be higher? We do not consider this necessary because for the new operators, they should not be charged a higher licence fee for the first year. I believe any industry will hope that the annual licence fee can remain the same.

Therefore, we are computing costs on the basis of the entire costs, rather than on the cost which is approved in the first place.

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

**MR TOMMY CHEUNG** (in Cantonese): *President, the part of my supplementary which the Secretary has not answered is that when considering fee alignment, why does the Government only raises those fees which are lower instead of lowering the fees which are higher?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, when I said there would be various degrees of upward adjustments for fees, I am primarily referring to the fact that for a period in the past, these fees have all been frozen, and in 1998, the then Provisional Regional Council even adjusted them downwards. If we really have to recover costs, it is likely that the fees need to be adjusted upwards. I am only stating the fact.*

**MR WONG KWOK-HING** (in Cantonese): *President, being a Member of the former Provisional Regional Council, I am still proud of achieving the good measure of reducing licence fees by 30% in 1998. I feel fortunate that fees were lowered by 30% a decade ago, otherwise, business will be more difficult for the industry.*

*I have a question for the Secretary. You always mention cost recovery, but you have failed to give the public a figure, that is, the posts of many officials and Members have been cut as a result of the abolition of the two municipal councils and the integration of the two departments. President, you are also aware that with the abolition of the two municipal councils and the reduction of the Members involved, the Government should have saved much in terms of expenditure. Why did the Government not take into account the costs thus saved? Should it not explain this amount to the public? So, if there is to be an alignment, there should be room for a substantial downward adjustment of the licence fees for the New Territories to the level brought down by the Urban Council then. The Government seems to have forgotten this part of the costs saved. In that case, I wonder if the Secretary can tell us how this amount has been accounted for?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, when computing costs, we do not base on the costs of the then former Urban Council or those of the former Regional Council. Rather, we base our computation on the*

current costs of the FEHD. Basically, the principle of cost recovery is the Government's fiscal principle, therefore, if we continue to adjust our fees in accordance with this principle, we reckon that computation should be based on the current costs instead of the costs then.

Over the years, the Government has made various adjustments to the framework. Some fees have been increased but there are also fees which have been reduced. No matter what, the primary principle is to compute on the basis of the present required resources and costs. This is really the most important point.

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

**MR WONG KWOK-HING** (in Cantonese): *President, the Secretary has not answered upon the abolition of the two municipal councils, how much has been saved as a result of a reduction in the number of officials and Members?*

**PRESIDENT** (in Cantonese): I believe the Secretary has answered it.

**MS STARRY LEE** (in Cantonese): *President, from 1998 till now, the arrangement concerned has not been reviewed, and in paragraph ten of the main reply, the Secretary said, "..... the licence fees of food businesses in the urban area and the New Territories should be aligned in the long run." Earlier, the Secretary also said that time should be spent on discussion and on collecting the views from different sides. Could the Secretary tell us today when this review will be conducted and when the result will be made known to the public?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the simple answer is we intend to wait till the economy of Hong Kong start to return to its normal track and the industry can absorb these adjustments before setting about this task. There is no fixed timetable for the time being.

**MS STARRY LEE** (in Cantonese): *President, the Secretary has not answered my supplementary. I wish to have a fixed date or year.*

**PRESIDENT** (in Cantonese): The Secretary has already told you about this. I believe he has made a reply. If you are not satisfied, you can only follow up through other channels.

Fifth question.

### **Marches on 1 July**

5. **MR KAM NAI-WAI** (in Cantonese): *President, tens of thousands of people took part in the march on 1 July in each of the past several years. I expect that more people will participate in the march on the coming 1 July, that is, next Wednesday, to express their dissatisfaction with the Government's lack of sincerity to implement universal suffrage and its various blunders in implementing policies. On the other hand, the applications by some political parties to the relevant government departments to set up pitches at the pedestrian precincts on Paterson Street in Causeway Bay and Mong Kok to promote the march have been rejected. In this connection, will the Government inform this Council:*

- (a) *whether it has reflected on its refusal to implement dual universal suffrage in 2012 and its various blunders in implementing policies to find out the causes for so many people taking to the street to participate in the march each year; if it has, of the outcome; if not, the reasons for that;*
- (b) *how many participants in this year's march are required to make the Government not to refuse the public's demand for expeditiously implementing dual universal suffrage in 2012 and to address their dissatisfaction with its blunders in implementing policies; and*
- (c) *whether the authorities' recent rejection of the applications by political parties for organizing promotional activities at pedestrian precincts for the 1 July march is an attempt to reduce the number of participants in the march?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President,

- (a) The HKSAR Government understands the aspirations for universal suffrage of the community. That is why we issued the "Green Paper on Constitutional Development" 11 days after the formation of the third-term HKSAR Government to consult the public on the models, roadmap and timetable for implementing universal suffrage. After the three-month public consultation, the Chief Executive submitted a report to the Standing Committee of the National People's Congress (NPCSC) in December 2007 and made public the report in Hong Kong. The NPCSC made a decision on 29 December 2007, making clear the universal suffrage timetable.

The NPCSC had already made it clear that the Chief Executive may be elected by universal suffrage in 2017 and that following that all Members of the Legislative Council may be returned by universal suffrage in 2020. This decision is widely accepted by the community. We should look ahead and discuss seriously how to enhance the democratic elements of the two elections for 2012, so as to pave the way for implementing universal suffrage in Hong Kong.

As for the implementation of policies by the HKSAR Government, in the process of policy formulation, we give ample consideration to the views of the public and Legislative Council, and draw on previous experience. We also review regularly the policies pursuant to their implementation. For example, the swift response of the HKSAR Government to the outbreak of human swine flu was built on our experience on the handling of the Severe Acute Respiratory Syndrome (SARS) in 2003. The HKSAR Government will continue to adhere to the "people-based" principle and enhance communication with the general public, so as to embrace public sentiment and respond more effectively to the needs of the public.

- (b) The HKSAR Government fully respects the people's right to take part in processions and their freedom of expression. Regardless of the size of the procession, we attach great importance to the different aspirations expressed by those who participate in such processions.



- (c) Any organization which intends to sell goods in public places for fund-raising purpose is required to apply to the Food and Environmental Hygiene Department (FEHD) for a temporary hawker licence. Upon receipt of the application, the FEHD will consult the relevant departments, including the police, the Lands Department and the Home Affairs Department. If the relevant departments have raised no objection, the FEHD will issue the temporary hawker licence to the applicant.

Recently, individual organizations had applied to the FEHD for temporary hawker licences so as to sell goods at pedestrian precincts and public places. Licences were granted to some of the applicants where no objection was raised by the relevant departments. However, some of the applications were rejected by the FEHD because, according to the police and Lands Department, the locations concerned had already been allocated to other organizations, or because the police raised objection due to concerns on public safety after considering the flow of pedestrians and traffic in the vicinity. In addition, as some organizations put up their applications only three days prior to the sale activities, and the FEHD had insufficient time to consult the relevant departments, thus licences could not be granted in these cases.

**MR KAM NAI-WAI** (in Cantonese): *President, the Secretary is indeed a flesh recorder whenever the issue of constitutional affairs is touched upon, that is, he would only read out the contents word by word. However, this time, he added the element of human swine flu in the hope that it could be taken as his defense, but he made no mention of the Government's dereliction of duty and failure to fulfil its responsibility in the Lehman incident.*

*President, in his main reply, the Secretary expressed that regardless of the size of the marches, the Government would attach great importance to the different aspirations expressed by the public and fully respect their rights all the same. However, the Secretary might have ignored the fact that had it not for the 500 000 people taking to the streets in 2003, TUNG Chee-hwa would not have stepped down and the Government would not have to take back the intended action on legislating Article 23 of the Basic Law. To the Government, the number of participants joining the marches is important.*

*The question I would like to ask is, at present, the Government is repeatedly suppressing the aspirations for democracy of the people in Hong Kong, and is repeatedly delaying consultations for constitutional development, so how many participants have to take to the streets before the Government would implement a genuine universal suffrage for the people in Hong Kong? When on earth would consultations for constitutional development begin?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, we attach great importance to the attainment of the ultimate goal of universal suffrage by Hong Kong as prescribed by the Basic Law, we also attach great importance to the aspirations of people in this respect. Therefore, work in this area has been carried out since the inception of the third-term Government. Within six months, the universal suffrage timetable had been obtained by the Government, a result and progress which have not been attained by any previous term of the Government.

As for the size of procession, I could reiterate that due weight would be attached to the different aspirations expressed by the public through processions regardless of topics and circumstances.

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

**MR KAM NAI-WAI** (in Cantonese): *Just now I asked the Secretary when on earth would we begin consultations for constitutional development, to which he has not answered.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I could reiterate that the Administration would begin public consultations on the two election methods for 2012 election in the fourth quarter of 2009.

**MR ALAN LEONG** (in Cantonese): *In part (c) of his main reply, the Secretary mentioned that as some organizations put up their applications only three days prior to the sale activities, as a result licences could not be granted. I believe*

*we — the Civic Party — could take for granted that we were the party being referred to. We submitted two applications on 12 June for publicizing the march on 1 July at Times Square from 15 to 30 June. Why were we so late? It was because we had previously submitted our application on 23 April for setting up pitches to publicize the march on 1 July for four consecutive weeks (a total of 28 days inclusive of Saturdays and Sundays) at the nearby Paterson Street. However, the FEHD gave us a reply on 9 June (that is, after a stretch of 48 days inclusive) that our application could not be accepted as Paterson Street had been allocated to other organizations. President, may I ask the Secretary why did an organization have to be placed in such a plight? Why did it take as long as 48 days to reply? Is the Administration deliberately delaying the scrutiny and approval to make things difficult for the Civic Party?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, about this case, according to the information provided to me by the departments concerned, the FEHD had issued a reply to the applicant as soon as possible after consultation with other departments.

**MS EMILY LAU** (in Cantonese): *President, according to the Secretary, it was stated by the NPCSC that the Chief Executive might be elected by universal suffrage in 2017, that all Members of the Legislative Council might be returned by universal suffrage in 2020, that this decision was widely accepted by the community and that we should look ahead. Is the Secretary aware that many people in fact do not believe that there would be genuine universal suffrage in 2017 and 2020? Has the Secretary anticipated that many members of the public would come forward on 1 July to inform him and the Beijing Government that they still aspire for dual universal suffrage in 2012? Has this case been anticipated by the Administration?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, we understand that there are diversified views in the community as to when dual universal suffrage should be implemented. After the decision of the NPCSC on the universal suffrage timetable was obtained at the end of 2007, it was brought to our attention that results from opinion polls conducted by universities and other survey agencies indicated that about 70% of the public accepted that the Chief Executive be elected by universal suffrage in

2017 and Members of the Legislative Council be returned by universal suffrage in 2020. Certainly, in the permissive society of Hong Kong, diversified views are present as to when the Chief Executive and Legislative Council Members should be elected and returned by universal suffrage. The SAR Government would pay due attention and attach due importance to whatever view expressed.

**MS EMILY LAU** (in Cantonese): *President, I would like to ask about screening. I would like to ask whether the Administration is aware that many people feel that screening would exist in the so-called "one man-one vote" election in the future; and whether the Secretary is aware of the number of participants who will be taking to the street on 1 July to inform him that they do not believe in the so-called universal suffrage timetable?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): *President, I know that various organizations and individuals have grave concerns and views on the implementation of the election of the Chief Executive by universal suffrage in 2017. I wish to reiterate that according to the decision by the NPCSC in December 2007, all eligible electors, once registered, could participate in the election of the Chief Executive by universal suffrage, hence that should be a "one man-one vote" mechanism. As for 1 July, no matter how many people take to the street, no matter whether it is 1 July or any other dates, or about any other issues, the SAR Government would attach due importance to the views they expressed.*

**MR LEE CHEUK-YAN** (in Cantonese): *I do not want to hear any more of this talk from the "human flesh recorder", perhaps let me ask him one question, that is, will he join the procession on the afternoon of 1 July? I know he will be joining the parade in the morning. President, currently, there is a saying that the Chief Executive, Secretary LAM and a number of officials would be attending the parade celebrating the reunification in the morning, but would the Secretary attend the march in the afternoon after the parade in the morning? Just now, he said he understood the demand of the Hong Kong public for dual universal suffrage in 2012, then, as an individual, would he fight for dual universal suffrage in 2012 as well? Back in the days when they submitted the report to Beijing, they also admitted that 60% of the people in Hong Kong hoped to see dual universal suffrage implemented in 2012, but they betrayed the people in Hong*

*Kong saying that there was no consensus in Hong Kong, so implementation of dual universal suffrage had not been included in the report submitted to the Central Authorities. They had betrayed the people in Hong Kong. I will give him a chance to "wash off his deeds" this time, so will he be joining the march on 1 July? He should not just attend the parade in the morning. I request him to clarify if he will only attend the parade in the morning but not the march in the afternoon. Is he adopting a "favoritism" attitude? Will he only support the reunification celebration but not the dual universal suffrage?*

**PRESIDENT** (in Cantonese): Please state how your supplementary question is related to the main question.

**MR LEE CHEUK-YAN** (in Cantonese): *There is a part in the main question which asked for the number of participants who would have to take to the streets this year before dual universal suffrage would be implemented by the Government as soon as possible. Indeed, I hope to lobby for the participation of one more person — who is Secretary LAM — to join in the march. Hence, this supplementary question is closely related to part (b) of the main question — the number of participants who would have to take to the street this year.*

**PRESIDENT** (in Cantonese): Your supplementary question is clear enough.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I am grateful for the due weight attached to my personal participation by Mr LEE Cheuk-yan. However, since I work for the Government, any participation would not be in a personal capacity. The working team of the third-term SAR Government gives great regard for the views of the people. Hence, we strove to set down the universal suffrage timetable without delay upon assuming office in July, 2007. Now that the timetable had been set, we have to look ahead in anticipation of the enhancement of the democratic elements of the two elections for 2012 to pave the way for the implementation of universal suffrage in Hong Kong in 2017 and 2020. As for 1 July, various colleagues would certainly attend the reunification celebration activities.

**MR LEE CHEUK-YAN** (in Cantonese): *He had not given an answer. Why does he intend to attend just the activities in the morning and not the march in the afternoon? He said he was an individual ..... just now he said that it would not be in a personal capacity but in the capacity as the whole team. The whole term would attend activities together only in the morning but not in the afternoon, so what kind of a team is it?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, what I can reiterate is that, for the views expressed, no matter whether they are from any demonstrations, marches, or gatherings, the SAR Government would attach due importance.

**MS AUDREY EU** (in Cantonese): *President, I would like to follow up Mr Alan LEONG's supplementary question. It had been raised by him that application had indeed been made by the Civic Party on as early as 23 April. Why was it that reply from the relevant department was only available on 9 June, that is, seven weeks later, indicating that the location we applied for had been occupied by other organizations or approved for activities to be held by other organizations? Just now, Mr Alan LEONG asked the Secretary why it took so long for the scrutiny and approval, and the Secretary explained that it was because the FEHD had to consult the views of other departments. There is no reason why a span of seven weeks should be needed even if the views of other departments had to be sought. If there were other applications prior to ours, it should have been known at the time our application was submitted that the location concerned had been the subject of other prior applications; despite the fact that there were applications submitted later than ours, the Administration deliberately placed our application the last for scrutiny after others had made their applications. Otherwise, why is it that the department gave us the reply only seven weeks later to inform that the location and the dates we applied for had all been marked for the applications by other organizations?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I could provide an answer on the basis of the information supplied by the FEHD. Application had indeed been submitted to the FEHD by fax by the Civic Party on 23 April this year, which thereafter was immediately referred to the relevant departments. After replies from all relevant departments had been collected on 3 June, they sent a reply to the Civic Party by fax on

5 June. The Civic Party had indeed made several applications — they applied for temporary hawker licence to sell goods at the pedestrian precincts at Paterson Street, Causeway Bay respectively on 6 to 7 June, 13 to 14 June, 20 to 21 June, and 27 to 28 June. However, it was pointed out by the police and the Lands Department that those locations had been allocated to other organizations. Furthermore, after considering pedestrians and traffic flow in the area nearby, the police was not in support of the application, hence temporary hawker licence could not be issued to the applicant by the FEHD. However, I would add in supplement that since the relevant departments had no objections towards the application by the Civic Party to display goods for sale at three locations at Causeway Bay on 1 July, a total of three temporary hawker licences were issued to the Civic Party by the FEHD.

**MS AUDREY EU** (in Cantonese): *Excuse me, President; he has not answered my supplementary question at all. President, the question this time is about the display of goods for sale before 1 July, and the crux of the issue is whether the Government intends to reduce the number of participants joining the march on 1 July by not approving the application. Hence, I am referring to the period prior to 1 July. It has been confirmed by the Secretary that applications for eight different places on eight different dates had been submitted by the Civic Party on as early as 23 April, why did they only give a reply to us seven weeks later, saying that applications concerning all the eight days were not approved? As for the dates, reply from the Administration was that it could only inform us on that day. However, it is precisely the crux of my supplementary question that if there were applications from other organizations, they would enjoy priority treatment only if they were made earlier than ours. If that were the case, it would have been known by the relevant departments at the time when we submitted our application, why did they have to wait till 9 June before informing us? Even if on the record of the relevant departments that a reply was given to us by fax on 5 June, that is, four days earlier than the date quoted by us, but that date was already also close to seven weeks. This is the crux of my supplementary question. The Secretary has not explained at all why they replied only after seven weeks to inform us that all the applications we made in April were not approved because all the stall locations had been reserved by others.*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, what I can state again is that according to the information submitted by the Civic Party, they applied for a licence to sell books for

fund-raising purpose; it had not been mentioned in the application form that the said activity would be related to promoting the 1 July march. Hence, content of the application was considered when their application was scrutinized by the FEHD, police and the Lands Department. Then, points considered by the police also included whether there were other applicants applying for similar activities to be organized at the same place during the same period, the passenger and traffic flow at the relevant locations, as well as the need for safeguarding the safety of the public and maintaining public order, and so on. After the police had provided their views on the above to the FEHD, the decision was made in early June.

**MS CYD HO** (in Cantonese): *President, just now, it was stated by the Secretary that after much efforts, a timetable was secured by the current term Government, however, since the establishment of the SAR Government, neither has any one term of the SAR Government delayed the timetable for universal suffrage for 10 years in one go. Hence, this is certainly not something which the Secretary should be proud of. It has been indicated by the Secretary in his main reply that due weight would be placed on the requests expressed by the people. From the 1 July march every year, requests of the people have indeed been clear enough, which is the implementation of dual universal suffrage without delay. Were there corresponding actions specifically taken to reflect the due weight stated by the Secretary? Were specific actions taken to pull back the universal suffrage timetable to 2012? If none has been taken, how would the due weight as stated differ from the acts of looking down upon, disregard and contempt?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, in the report submitted to Beijing and the NPCSC in December 2007, request of the people in Hong Kong for implementation of universal suffrage had fully been reflected by the Chief Executive. We have also expressed that it is the aspirations of the people for universal suffrage to be implemented in 2012, and due weight should be given to such a view. However, we now have the decision that the Chief Executive will be elected by universal suffrage in 2017 and thereafter Legislative Council Members will be returned by universal suffrage in 2020. At present, we continue to have disputes over this gap of five years. However, instead of living in the struggle over something in the past, we had better look forward and work towards democratic progress in the 2012 election and pave the way for universal suffrage in future.



**PRESIDENT** (in Cantonese): Almost 22 minutes have been spent by this Council on this question. The last oral question.

### **Relocation of Yau Ma Tei Fruit Market**

6. **MS STARRY LEE** (in Cantonese): *President, Report No. 48 of the Director of Audit published in April 2007 criticized the authorities that so far they had not implemented the plan to relocate the Yau Ma Tei (YMT) Fruit Market which was decided in 1969. For many years, the YMT Fruit Market is operating all night every day, causing serious traffic and environmental nuisances to the residents and drivers in the vicinity. Through the efforts of the Working Group on Concern for the YMT Fruit Market under the current Yau Tsim Mong District Council, the differences between the District Council and fruit traders have basically been resolved. The trade representatives also indicated clearly a year ago that they agreed to move out conditionally. In this connection, will the Government inform this Council:*

- (a) *whether the Government has commenced negotiation and discussion with Kowloon Fruit and Vegetable Merchants Association Limited since the latter indicated its willingness to move out; if it has, when such negotiation was conducted and the present progress; if not, the reasons for that; whether the Food and Health Bureau has commenced the relevant work in accordance with the "Indicative Timetable for Relocating the YMT Fruit Market" submitted to the Public Accounts Committee (PAC) of this Council in January 2008; if it has commenced work, of the details; if not, the reasons for that;*
- (b) *whether the Development Bureau and the Commerce and Economic Development Bureau have commenced a study on the proposal to create a global fresh fruit trading centre in the new fruit wholesale centre, which has been put forward several times in recent years by the fruit wholesale trade; whether this will be discussed, facilitated and developed in the context of the relocation of the YMT Fruit Market; if so, of the details; if not, the reasons for that; and*
- (c) *regarding the present grave situation of noise nuisance and obstruction of roads due to the operation of the fruit market between 9 pm and 8 am in YMT District, what solutions the government*

*departments concerned have and their details, and how the departments curb the spread of such illegal acts to other lots?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): The YMT Fruit Market has a long history. As it mainly operates at night, this has indeed caused some disturbance to the nearby residents. As early as in 1990, the Government had planned to relocate the YMT Fruit Market to Phase II of the Cheung Sha Wan Wholesale Food Market which was then expected to be completed by the end of 1997. Later, having considered the views of the Audit Department and the PAC of the Legislative Council on the need to make best use of the land of Phase II of the Cheung Sha Wan Wholesale Food Market, the Government proposed to construct a wholesale food market complex for relocating the YMT Fruit Market and the Cheung Sha Wan Temporary Wholesale Poultry Market. Funding approval was successfully sought from the Finance Committee of the Legislative Council for this proposal. However, when private developers were invited to compete through open tender for the construction project, only a sub-standard tender was received. The Government subsequently decided to develop the wholesale food market complex on its own to accommodate wholesalers of five trades, namely wholesalers of vegetable, egg, fish, live poultry and fresh fruit. Yet, the relevant wholesalers opposed the idea of a wholesale food market complex strongly and unanimously on the ground that the idea would cause serious traffic problems and conflicts among wholesalers in their business operation.

In the light of views of the wholesalers, the Government searched for alternative sites for the relocation of the YMT Fruit Market in 2000 to 2001, but fresh fruit wholesalers expressed their unwillingness to move away from the urban area, arguing that sites outside the urban area were inconvenient. However, it is difficult to identify suitable sites in the densely populated urban area.

Though many fresh fruit wholesalers wished to continue their operations at the existing site, the Government could not neglect the wish of the local residents living in the vicinity of the YMT Fruit Market to relocate the fruit market early. Therefore, in 2007, we put to the PAC that a part of the Cheung Sha Wan Wholesale Food Market Phase II should be reserved for constructing a separate fresh fruit wholesale market for relocating the YMT Fruit Market.

Subsequently, the Food and Health Bureau, Agriculture, Fisheries and Conservation Department and the Yau Tsim Mong District Office (YTMDO) had a number of discussions with the trade and conducted site visits to Phase II of the Cheung Sha Wan Wholesale Food Market. They also discussed the relocation issue with various stakeholders through different channels, including meetings of and public seminar organized by the Yau Tsim Mong District Council's working group. Representatives of the trade, including the Kowloon Fruit and Vegetable Merchants Association which mainly represented the fruit traders, attended the above meetings and public seminar and gave their views.

During our discussion with the trade, we provided relevant information and proactively responded on various subjects and suggestions. Issues discussed included sites for the new market and the supporting public transport and traffic arrangements, and so on. As we planned to cater for the needs of the trade through market design as far as possible, we had, for a number of times, invited trade representatives to assist in collecting and consolidating the views of the trade and provide information on the actual area and facilities required as well as other relevant needs. However, we have not received any response from the trade thus far.

On the other hand, a trade association once put forward that one of the main conditions for fresh fruit wholesalers to voluntarily move out of YMT was that in the future, all fresh fruit wholesale businesses in Hong Kong must be conducted at the new market. We considered this suggestion unacceptable.

This is because under the free market policy, distribution arrangements for fruits imported into Hong Kong (either through wholesale or direct sale) should be determined by market demand, and it will not be appropriate for the Government to interfere. If all fresh fruit wholesalers, including traders now operating outside the YMT fruit market in an orderly and lawful manner, are compelled to operate in the new market through licensing requirements or other means, not only will this contradict the Government's established policy of providing a business friendly environment and promoting fair competition in a free economy, the retail cost of fruits will also increase, to the detriment of consumers.

Moreover, if it becomes a mandatory requirement that all wholesaling of fresh fruits in Hong Kong must be restricted to one particular market, not only will this immediately affect merchants who wholesale their fruits by other means

and those who acquire fruits through other channels, this may even give rise to unfairness and create an unnecessary obstacle for those who are interested in joining the trade in the future.

Although we consider the conditions proposed by the association unacceptable, we remain open to other arrangements of the relocation. As mentioned before, we hope the trade will soon provide us with information on the actual area and facilities required as well as other relevant needs, so that discussions can be commenced as soon as possible.

To address the nuisances caused by the operation of the fruit market, relevant government departments, including the police as well as the Food and Environmental Hygiene Department, will continue to take necessary enforcement actions. The YTMDO will continue to monitor the environmental hygiene condition of the neighbouring streets of the fruit market and co-ordinate the efforts of the relevant departments to remedy the problems as and when necessary, including co-ordinating joint departmental clean-up operations along the neighbouring streets of the fruit market.

Furthermore, since mid-2006, the Lands Department has let the site at the junction of Ngo Cheung Road and Hau Cheung Street to wholesalers of the YMT Fruit Market by way of short-term tenancy for loading and unloading purpose. This arrangement can alleviate the road obstruction problem caused by the loading and unloading activities of the trade. The departments concerned will continue to monitor the situation and discuss the relocation of the YMT Fruit Market with the trade through the relevant District Council working group.

**MS STARRY LEE** (in Cantonese): *President, the issue of relocating The YMT Fruit Market has been discussed for over a decade. Whenever we go to the Yau Ma Tei district — the President may have been there before — as soon as we approach the King's Park area and the residents catch sight of me, they would ask whether I can help them to relocate the YMT Fruit Market? In this regard, I really hope the Government can share the people's sense of urgency. I certainly understand it is not easy to relocate the YMT Fruit Market, but whether it is attainable depends very much on whether the Government has the determination. Was the relocation of the Walled City a difficult task? Of course it was difficult, but it was achieved in the end; even the Rennie's Mill village had been relocated,*

*right? They were achieved simply because the Government felt the urgency of the matter, therefore a timetable was set down and the problems were solved.*

*In fact, members of the public expect the Government to set down a specific timetable and to inform the public when the relocation work will be completed. Will the Secretary take this opportunity to tell us whether he will undertake to complete this task within his term of office? To the residents of Yau Ma Tei, this is a great expectation. Can a timetable be set down with the specified year, so as to enable the relocation of the YMT Fruit Market to be implemented?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I wish to thank the very positive attitude of the Yau Tsim Mong District Council in addressing this problem, and relevant Members and political parties have also done a lot of work in this regard, which have enabled us to reach a consensus gradually on issues that we initially considered to be insolvable. However, just now I have raised a number of issues, including requests from the wholesalers — that if we are to relocate them to somewhere else, then the new market should be the only venue for fresh fruit wholesale transactions in the territory. Besides, the wholesalers have not clearly explained a number of necessary conditions yet. Therefore, in this regard, if members of the relevant District Council or political parties continue to exert their efforts, we hope differences between wholesalers and residents can be removed, and a greater consensus could be achieved. We do not rule out the possibility of setting a timetable, but for the time being, I believe that the issue is not as simply as moving the market out of the area, because the district itself also has other considerations, for example, the market itself has been listed as a statutory historical building. All of these issues must also be resolved. I believe that a decision cannot be achieved in the short term, such as whether these problems will affect its future use and development, and how should the entire district be redeveloped in the long run. However, I agree that we should deal with the matter proactively. Therefore, I undertake that I will continue to monitor this issue within my term of office and hope that a definite consensus can be reached between the industry and local residents.

**MS STARRY LEE** (in Cantonese): *What the Secretary has not answered is that as I mentioned earlier, the Government has in fact been concerned about the*

*problem, but as the practical examples I have mentioned just now, including the relocation of Walled City and a lot of difficult relocation .....*

**PRESIDENT** (in Cantonese): You only have to repeat the part that has not been answered.

**MS STARRY LEE** (in Cantonese): *Will the Secretary inform members of the public clearly that whether or not he will undertake to deal with the relocation matter within his term of office, or will he set down a timetable which specifies the year of relocation, so as to allow the residents in Yau Ma Tei to be aware of such plan?*

**PRESIDENT** (in Cantonese): I think the Secretary has answered that. Let me see if the Secretary has anything to add.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, just now I have said that I would try my best to do my work within the scope of my duties, but I do not consider this a very simple matter. It cannot be resolved by our bureau alone, nor can it be resolved just by the Government. I believe that this problem can be resolved with participation and acceptance from the public in this matter, which is subject to detailed public discussions, and even the participation of all stakeholders. Thus, while we will do our best, I hope that the relevant District Council, local residents and the relevant business stakeholders will exert their efforts in this regard.

**MR VINCENT FANG** (in Cantonese): *President, there are two wholesale fruit markets in Hong Kong. One of them is the YMT Fruit Market, and the other is the Western Wholesale Food Market (WWFM). At present, the utilization rate of the WWFM is very low, and very few wholesalers will make their procurement there. What is the reason for the Government in not considering their consolidation into one, that is, combining the two wholesale markets into one? The effect will be much better. Has the Government taken this into consideration?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I wish to thank Mr FANG for his views. According to the information I have at hand, it does not show that the Government has taken this issue into consideration. Since the Government has already planned to use the plot of land in Cheung Sha Wan for this purpose, we believe that if all strata of society are interested in it, then it should be more helpful to the trade if the market is relocated to Cheung Sha Wan than to the Western District, particularly in various aspects of the logistics arrangement, the location in Cheung Sha Wan seems to be more convenient than the Western District.

**MR VINCENT FANG** (in Cantonese): *What I mean is that if the Administration plans to relocate the YMT Fruit Market to Cheung Sha Wan, will it consider making it a more sizable development by merging the WWFM with it, so as to avoid causing wastage of the WWFM due to its low utilization rate?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, just now I have misunderstood Mr FANG's view. It was once within our consideration to relocate the WWFM and the YMT Fruit Market to Cheung Sha Wan, instead of relocating the YMT Fruit Market to Western District. We have already considered that. In the course of communicating with the trade, however, no consensus has been reached among all parties concerned on some of the major principles I have just mentioned. Therefore, it is logical that we should address the major principles before considering the details of the arrangement.

**MS LI FUNG-YING** (in Cantonese): *President, I have been listening very carefully to the Secretary's reply, but so far, it seems that we are still remaining at the stage of discussion without reaching a decision. The Secretary said he kept an open mind to the arrangements of the relocation and hoped the trade would soon provide the Government with information on the area as well as facilities required before commencing any discussion. Since the Secretary wishes that the trade will provide its suggestions as soon as possible, may I ask whether the Administration or the relevant party has any effective measures to help the trade to draw up a proposal as soon as possible, or will he just leave the trade to entirely run its own course?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): We have liaised with the trade many times, and we have asked each unit or stall to provide information on the area required and the supporting transport need, such as the area for storage purpose that the wholesalers required and whether such facilities should be supplied with air-conditioning. However, as I said earlier, we could not reach a consensus on the most important principle, that is, the trade requested to operate under the so-called monopolistic mode of operation after the relocation of the YMT Fruit Market. However, we believe that this is inconsistent with the free market policy that prevails in Hong Kong. Therefore, we have yet to reach a consensus for the time being.

**MR ALAN LEONG** (in Cantonese): *I wish to discuss paragraphs 10 and 11 of the main reply with the Secretary. The Secretary said that necessary enforcement actions would be taken, and since mid-2006, the site at the junction of two streets was allocated to wholesalers for loading and unloading purpose. However, if the Secretary passes by that section of Waterloo Road around 10.30 pm to 12 am, President, he will find that notwithstanding that there are three lanes on each side of the road, only one lane of road space is available to traffic on each side of the road by 11 pm or so. The Secretary has mentioned a lot of problems, but before all these problems are resolved, with no timetable and roadmap being drawn up with regard to the relocation of the YMT Fruit Market, would there be any measures in place to solve the plight of reducing a six-lane road to only a one-lane carriageway on each side of the road during the midnight?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I always drive pass that road section. Generally speaking, from 9 pm onwards, we would gradually see some people coming out from that area using wooden carts to deliver goods, and then some trucks would arrive and people would start delivering the goods. However, every time when I pass by this area — the time would not be that late, it would only be around 11 pm to 12 am, there would not be too many vehicles and this is a fact; and when porters see a vehicle passing by, they will push their carts by the road side and wait for traffic to flow before resuming the unloading process.

Of course, we consider the situation undesirable, it is also a problem we should have addressed, but I believe and have noticed that when police officers or



other parties are in the precinct, they will naturally caution such people or take action to prosecute and so on if they consider that the road is obstructed by these people. Information has shown that the police have taken enforcement action in this regard. Therefore, although this is not an ideal situation and we have to resolve it, it is rather difficult to come up with a solution. When we look at this issue, we can see that the situation has existed for almost 40 years since a solution of the problem was first called for, but a newly popped up question is: what will be the future use of this site? Has the relevant District Council made any recommendation in this regard, and do the Government and other relevant departments have any views on the proposal? I think I would not be able to give Members a simple answer today, but I have promised Members that we will try our best to address and resolve this problem. If the demands of wholesalers are reasonable, I believe that it will be much easier to resolve this problem.

**PRESIDENT** (in Cantonese): There are still three members who wish to ask supplementary questions, but as this Council has spent more than 19 minutes on this question, and we have spent more than two hours on the entire oral question session, therefore Oral Question Time ends here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Assistance for Insurance and Finance Sectors**

7. **MR CHAN KIN-POR** (in Chinese): *President, in the face of the impact of the financial tsunami, the insurance and finance sectors have been the first to be dealt a serious blow. According to the provisional statistics released by the Office of the Commissioner of Insurance (OCI), new office premiums (excluding Retirement Scheme business) of long-term business for the first quarter of 2009 receded significantly by 60.5% to \$8.544 billion when compared with the same period in 2008, which was attributable to 24.2% and 83.5% drop in Individual Life and Annuity (Non-Linked) business and Individual Life and Annuity (Linked) business respectively. In fact, many middle-level management and front-line sales staff of the insurance and finance sectors have suffered significant drop in income, or even lost their jobs. In addition, as the Lehman Brothers incident has raised people's skepticism over investment products, many employees in the sectors are facing the threat of structural unemployment. In this connection, will the Government inform this Council whether:*

- (a) *it will take measures to enhance the public's confidence in the insurance and finance sectors, in order to consolidate Hong Kong's status as an Asian financial centre; if it will, of the contents of such measures, if not, the reasons for that;*
- (b) *it will provide specific assistance for employees in the insurance and finance sectors to help them out of the economic mire; and*
- (c) *it is possible to establish "policyholders' protect funds" expeditiously in order to stabilize the market and stimulate the public's desire to take out insurance?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, in the face of the financial turmoil, the regulators will continue to duly discharge their regulatory duties to ensure the stability of the financial system. The Government is committed to undertaking a series of other measures to meet the challenges arising from the financial tsunami and consolidate Hong Kong's position as an international financial centre. These measures are mainly aimed at improving the regulatory framework and enhancing investor protection; facilitating market development, and advancing financial co-operation with the Mainland.

*Improving the regulatory framework and enhancing investor protection*

In respect of the recommendations in the reports on the Lehman Brothers Minibonds Incident prepared by the Hong Kong Monetary Authority and the Securities and Futures Commission and the Action Plan drawn up, we have been working with the two regulators in vigorously implementing the various measures to optimize the existing supervisory framework and enhance investor protection. Some of the improvement measures for the initial phase have already been implemented, including the introduction of new administrative guidelines or codes to strengthen the regulation of the business operation and conduct of financial intermediaries. As for other improvement measures such as the establishment of a financial services ombudsman by statute and the establishment of a cross-sector Investor Education Council, we will seek to conduct a

consultation exercise before end of this year and then consider their implementation.

In addition, we propose to establish a policyholders' protection fund (PPF) to enhance protection for policyholders in the event of an insurer's insolvency. We believe that this will help bolster public confidence in the insurance industry and promote the general stability of the insurance market. In the past few months, the OCI has maintained close liaison with the Hong Kong Federation of Insurers (HKFI) on matters that need to be considered in connection with the establishment of the PPF. We will consult the Legislative Council Panel on Financial Affairs on the framework proposal developed by the HKFI early next month. The OCI will take into account Members' views and then commission a consultancy study on the mode of operation and other details of the PPF.

#### *Facilitating Market Development*

We are actively taking forward various proposals to facilitate market development, including implementation of the "Government Bond Programme" to entrench the development of the local bond market and to attract inflow of more overseas funds. We will also amend the relevant taxation laws with a view to creating a level playing field for Islamic financial products *vis-à-vis* conventional ones and facilitating the introduction of more Islamic financial products in the financial market.

To facilitate business and enhance corporate governance, we are conducting the Companies Ordinance rewrite exercise. We will conduct a public consultation on the draft provisions in the fourth quarter of this year. In parallel, consultation on the review of the Trustee Ordinance will be completed within this year. The review seeks to enhance the competitiveness of our trust services industry and promote the development of the asset management market in Hong Kong.

We are revisiting the proposal of introducing a corporate rescue procedure for companies in financial difficulties so as to provide a "grace period for debt repayment", thereby providing an opportunity to those companies facing short-term financial difficulties but are viable in the longer term to turn themselves around. We will consult the stakeholders and the public on the proposed concept within this year.

*Advancing financial co-operation with the Mainland*

Free flow of capital, pooling of information, a highly efficient and transparent market, a regulatory and supervisory framework that is on a par with international standards and the pool of financial services professionals with global vision and good experience in serving mainland companies are some of the many key factors for Hong Kong to develop into an international financial centre. The vast mainland market has also provided us with abundant business opportunities. We will continue to capitalize on these advantages to advance the financial co-operation with the Mainland and attract more mainland enterprises to use Hong Kong as a financial platform to expand their international and regional businesses. We will keep up our efforts in consolidating our role as the preferred offshore fund-raising centre for mainland enterprises, providing professional and international corporate financing services. At the same time, we will continue to strive for lowering the threshold for Hong Kong financial institutions and financial services practitioners to enter the mainland market and promoting the free flow of capital between the Mainland and Hong Kong with a view to driving the economic development in both places. The Supplement VI to the Mainland/Hong Kong Closer Economic Partnership Arrangement, which was signed last month, launched some further liberalization measures with respect to the financial industry, such as allowing branches established by a Hong Kong bank in the Guangdong Province to set up "cross-location" sub-branches within the Guangdong Province and allowing qualified mainland and Hong Kong securities companies to set up in the Guangdong Province joint venture companies to provide securities investment advisory service. We are actively following up on the implementation of these initiatives.

Promoting Renminbi business is another important area. We have been putting forward suggestions to the relevant mainland authorities for further developing Renminbi bond business in Hong Kong. Good progress has been achieved recently. The Central Government has recently allowed the subsidiaries of Hong Kong banks on the Mainland to issue Renminbi bonds in Hong Kong. It is believed that the first issue will soon be launched. This new measure will not only expand the base of Renminbi bonds issuers in Hong Kong and offer investors with more choices, but also reinforce Hong Kong's role as a testing ground for issuing Renminbi bonds outside the Mainland. In addition, in April this year, the State Council decided to launch a pilot scheme of using Renminbi for cross-border trade settlements. Hong Kong has completed the

necessary preparations for becoming the first place outside the Mainland to support Renminbi-denominated trade settlements. The relevant mainland authorities are working closely on the formulation of the operational arrangements. We will continue to follow up closely with the relevant mainland authorities.

We believe that the implementation of the above measures will help enhance the competitiveness of Hong Kong as a financial centre and promote the development of the market, thereby creating more employment opportunities in the financial industry. We also encourage the practitioners to make use of the Continuing Education Fund to take industry-related courses so as to upgrade their professional knowledge and quality as well as increasing their competitiveness in meeting the challenges ahead.

### **Precautionary Measures for Earthquakes in Hong Kong**

8. **DR RAYMOND HO** (in Chinese): *President, it has been reported that a member of the Chinese Academy of Engineering who is an earthquake expert has said that earthquakes of Intensity V to VI on the Modified Mercalli Scale (MMS) might occur in the coming 10 to 30 years in the Guangdong areas, which are situated in the "middle-to-low intensity" earthquake activity zone. In this connection, will the Government inform this Council:*

- (a) *given that the Buildings Department (BD) had appointed a consultant to study and assess the earthquake risks in Hong Kong and its impact on local buildings, whether the relevant report has been completed and whether it will be made public; whether the report includes or will include the relevant comments and assessment results made by mainland earthquake experts regarding the chance of earthquakes occurring in the Guangdong areas adjacent to Hong Kong;*
- (b) *as Hong Kong's schools and disaster emergency relief facilities (for example, buildings such as fire stations, hospitals and police stations) are all wind-resistant, whether such buildings are at present capable of withstanding earthquakes as well; if so, of the intensity of earthquakes these buildings are able to withstand, and whether their*

*seismic resisting capability is comparatively lower than that of the taller buildings in Hong Kong in general; and*

- (c) *given that the earthquakes which occurred in Wenchuan, Sichuan last year demonstrated the importance for buildings to have seismic resisting capability, whether the Government will consider enhancing the seismic resisting capability of schools and the aforesaid disaster emergency relief facilities, so as to ensure that these buildings can be used as temporary shelters and emergency relief command centres in the event of earthquakes; and of the Government's major considerations, other than financial factors, when it considers whether or not to enhance the seismic resisting capability of these buildings?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, intense earthquakes in the world mostly occur along the boundaries of crustal plates. Hong Kong lies within the Eurasian plate but not on the boundary of the plate. The well-known Circum-Pacific seismic belt where major plates meet runs through Japan, Taiwan and the Philippines. Hong Kong is quite far away from this seismic belt, with about 600 kilometres from the nearest point. As such, the possibility of serious earthquakes in Hong Kong caused by collision of crustal plates is relatively low. On the other hand, according to geological structure analysis, the faults in Hong Kong are not active. The geological settings are not conducive to causing strong earthquakes. Earthquakes that occur in Hong Kong and its vicinity can cause tremor that can be felt by ordinary people, but the chance of causing serious damage is relatively low. In fact, since 1905 when the Hong Kong Observatory started recording locally felt earth tremors in the territory, Hong Kong has experienced 163 earth tremors of different intensities without causing any casualties. The strongest tremor ever recorded in Hong Kong was of Intensity VI to VII on the MMS. This locally felt tremor, which occurred in 1918, was caused by an earthquake near Shantou and was more than 300 km away from Hong Kong, and inflicted minor damage on the walls of a few buildings constructed under the prevailing building standards at that time. This has been the only earthquake that has caused damage in Hong Kong since 1905.

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

- (a) The BD has commissioned a consultancy study on issues concerning seismic effects with a major objective to assess the earthquake risks in Hong Kong and the effects of earthquakes on local buildings. The study was conducted in accordance with internationally recognized methodologies. It covered analysis of seismic data and records in Hong Kong and neighbouring regions, including a large amount of data on the seismic activities occurred in the Southeast China. It also made reference to the code for seismic design of buildings issued by the relevant departments of the Mainland regarding the need for seismic resistant designs for buildings based on the assessment of intensity of earthquakes in the Hong Kong region. The overall study has reached its final phase. The Administration is carefully consolidating and considering the findings of the study and will consult the stakeholders to map out the way forward.
- (b) The consultancy study has found that in general the seismic resisting capability of buildings with fewer storeys is lower than that of buildings with more storeys. Schools and disaster emergency relief facilities (for example, buildings such as fire stations, hospitals, police stations, and so on) have been designed to be wind resistant since the 1930s. The standard of wind resistance has been regularly upgraded to meet the changing needs. Therefore, these buildings possess load-resistant and seismic-resistant capabilities. In case where a severe earthquake occurs in the neighbouring regions causing a tremor of MMS Intensity VII in Hong Kong, these buildings are still basically safe and will suffer no serious damage. This has also been confirmed by the consultancy study commissioned by the BD, that is, most of the buildings in Hong Kong are basically safe in the event of an earthquake that may take place in the territory.
- (c) As mentioned in the first part of the reply, in exploring the way forward, the Government will take into account public safety and social needs as the primary considerations in examining whether there is a need to further enhance the seismic resisting capability of schools and disaster emergency relief facilities (for example, buildings such as fire stations, hospitals, police stations, and so on).

**Books on 4 June Incident in Public Libraries**

9. **MR ANDREW CHENG** (in Chinese): *President, I have learnt that books on the 4 June incident which provide substantial historical information and points of view are commonly available, and borrowing such books from the public libraries is one of the means by which members of the public and students get to know about this episode in history. In this connection, will the Government inform this Council:*

- (a) *of the respective titles and numbers of books on the June 4 incident which at present may and may not be loaned out in each of the public libraries (including mobile libraries);*
- (b) *whether the Government will make a change to allow the loaning out of the reference books on the 4 June incident which are popular among the readers but not available for loan at present; and*
- (c) *regarding popular books in the public libraries which are often all loaned out and reserved, what procedures and criteria have been adopted by the authorities for procuring additional copies and determining the number of copies to be procured; whether books on the 4 June incident are at present often all loaned out and reserved; if so, of the titles of the books concerned and whether the authorities have procured additional copies of such books in response to the demand?*

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

- (a) As at 15 June 2009, the Hong Kong Public Libraries (HKPL) holds 149 titles of books on the 4 June incident and related topics and the number of copies totals 1 162. Details of the relevant books and the number of copies available for loan are listed in Annex I. In response to the demand of the readers, HKPL has ordered an addition of 250 copies of these books. By then, the percentage of the relevant books available for loan will be 82%. Readers who wish to borrow books available for loan may place a hold and select to pick them up at any public libraries through the Library Automation System. Apart from the books listed in Annex I, the



libraries also keep periodical and newspaper materials containing information on the 4 June incident for readers' use.

- (b) Reference materials on the 4 June incident are kept in the reference libraries to facilitate readers to do research on the subject inside the libraries at all times. If the reference materials are allowed to be loaned out, there may be occasions where readers cannot have immediate access to the materials they need in the libraries. Moreover, some books can no longer be replenished in the market and it is therefore necessary to deposit them in the reference libraries for better preservation. This arrangement will also minimize chances of loss and damage in the course of loaning out. For some reference materials which are in heavy demand, HKPL will, in the light of the actual needs of readers and the market supply, consider acquiring additional copies as lending copies. The same arrangement applies to all books in general.
- (c) HKPL has been following the principles laid down in the United Nations Educational, Scientific and Cultural Organization Public Library Manifesto in acquiring library materials for the provision of a balanced and diversified library collection to meet the needs of people of different ages and sectors for information, research, self-learning and profitable use of leisure time. In acquiring library materials, HKPL will take into account the overall status of its collection, demands and interests of different users, quality of the materials concerned, the development of its collection, situation on book supply, and so on. The materials acquired will cover as many subjects as possible.

In order to optimize use of resources, HKPL will assess the needs and reading interests of readers on the basis of the loan statistics when it determines the titles and number of copies to be acquired. Readers can access to or borrow library materials across the whole HKPL system through the integrated Library Automation System and the Online Public Access Catalogue. Furthermore, HKPL reviews periodically the number of holds placed through the Library Automation System to assess readers' demands for library materials and determine the number of additional copies to be acquired so as to meet readers' needs.

Titles related to the 4 June incident which are often loaned out and reserved are listed in Annex II for reference. Among these titles, the English and Chinese editions of *Prisoner of the State: the Secret Journal of Zhao Ziyang* have registered considerable number of holds. Additional copies have therefore been ordered from the book suppliers and will be made available for loan to the public.

## Annex I

Library Materials on the June Fourth Incident and Related Topics  
as at 15 June 2009

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
1	一個解放軍的1989 <sup>#</sup>	蔡錚	2009	11	CH, FL, HKC, LH, QB, ST, SW, TP, TKO, TW, YMT	4	CH, KC, TW, TMU
2	人民不會忘記：八九民運實錄 <sup>#</sup>	64名香港記者	2009	20	CH, FY, FL, HKC, KC, LH, NCW, PO, QB, SPK, ST, SW, TP, TKW, TKO, TY, TW, TMU, YMT, YL	1	HKC
3	六四二0 <sup>#</sup>	陳潤芝	2009	9	HKC(2), KC(2), TW(2), LH, PO, LCK	1	TW
4	六四日記：廣場上的共和國 <sup>#</sup>	封從德	2009	36	AB, CH, CW, FL, FY, HH, HKC, KC, KN, KS, LCK, LH, MOS, NCW, NP, NTK, PO, QB, SK, SL, SPK, SS, ST, STT, SW, TC, TH, TKO, TKW, TMU, TP, TSW, TW, TY, YL, YMT	1	HKC
5	六四事件中的戒嚴部隊 <sup>#</sup>	吳仁華	2009	13	CH, FL, HKC, KC, LH, NCW, ST, TKO, TKW, TMU, TW, TY, YL	2	CH, KC
6	民運精英大起底 <sup>#</sup>	武聞	2009	28	HKC(2), CH(2), ST(2), TW(2), FL, KC, KS, LCK, LH, NCW, NTK, PO, QB, SPK, SS, STT, SW, TKO, TKW, TMU, TP, TSW, TY, YMT	4	CH, HKC, ST, TW

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
7	再回家 <sup>#</sup>	麥燕庭， 崔麗容， 陸燕玲	2009	14	CH, FL, HKC, LCK, LH, NTK, SPK, ST, STT, SW, KS, TSW, TKO, YMT	1	TW
8	血路1989 <sup>#</sup>	孔捷生	2009	14	CH, CW, FL, HKC, KC, KS, MOS, ST, SW, TKW, TMU, TP, TW, YL	4	CH, KC, TMU, TW
9	我要回家-我要回家-我 <sup>#</sup>	蔡淑芳	2009	20	CW, CH, FL, HKC, LCK, LH, NCW, PO, QB, SPK, ST, STT, SW, KS, TP, TSW, TKW, TKO, TW, YMT	2	CH, KC
10	改革歷程 <sup>#</sup>	趙紫陽	2009	25	AB, CC, CH, CW, FL, HKC, KC, KS, LCK, LH, MOS, NCW, NTK, SK, SPK, SS, ST, STT, TKO, TMU, TP, TSW, TW, YL, YMT	1	HKC
11	和天安門母親一起 <sup>#</sup>	許朗養	2009	19	CW, CH, FL, HKC, LCK, LH, NCW, PO, QB, SPK, ST, STT, SW, TP, TSW, TKW, TKO, TW, YMT	4	CH, KC, TW, TMU
12	從六四到伊拉克戰場：熊焱牧軍日記 <sup>#</sup>	熊焱	2009	9	HKC(2), KC(2), TW(2), LH, PO, LCK	1	TW
13	趙紫陽的秘密 (Prisoner of the State) <sup>#</sup>	吳曉璐	2009	9	HKC(2), KC(2), TW(2), LH, PO, LCK	1	TW
14	歷史的大爆炸：「六四」事件全景實錄 <sup>#</sup>	張萬舒	2009	15	CH, FS, HKC, KC, NTK, SK, SPK, SR, SS, ST, STT, TMU, TP, TSW, TW	1	HKC
15	1989.6.4.天安門血腥清場內幕	吳仁華	2007	5	CH, KC, ST, TW, TMU	1	HKC
16	天安門：中國的知識份子與革命 = The gate of heavenly peace : the Chinese and their revolution, 1895-1980	斯彭斯 (Spence, Jonathan D.)	2007	14	HKC, CH, KC, ST, TW, TMU, QB, SW, NCW, FY, FL, KN, SS, YL	1	HKC
17	天安門之子：最新政治評論集	余杰	2005	2	HKC, ST	1	HKC

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
18	王丹獄中詩	王丹	2003	14	HKC, AB, CH, KC, LCK, MOS, SPK, ST, STT, TP, TSW, TW, TMU, YMT	1	HKC
19	六四十三週年特刊	香港中文大學學生會	2002	2	CH, TMU	2	HKC, ST
20	中國「六四」真相 = June fourth : the true story. 上冊	張良	2001	12	HKC(2), CW, FY, KS, LH, QB, SW, TP, YL, TMU, TW	5	HKC(2), CH, KC, ST
21	中國「六四」真相 = June fourth : the true story. 下冊	張良	2001	11	HKC(2), LH, FY, STT, SW, QB, TP, CW, TW, TMU	5	HKC(2), CH, KC, ST
22	六四未圓永沒完：六四十二年特刊	第三十一屆香港中文大學學生會中大學生報出版委員會	2001	5	HKC, CH, KC, TW, TMU	3	HKC(2), ST
23	天安門不真相	陳敏生	2001	0	/	1	HKC
24	天安門盲點	白日見	2001	0	/	1	HKC
25	目擊天安門.第1卷	韓泰倫編	2000	0	/	1	HKC
26	目擊天安門.第2卷	韓泰倫編	2000	0	/	1	HKC
27	目擊天安門.第3卷	韓泰倫編	2000	0	/	1	HKC
28	目擊天安門.第4卷	韓泰倫編	2000	0	/	1	HKC
29	相信：六四十一周年專號	香港中文大學學生會中大學生報	2000	3	HKC, CH, KC	1	HKC
30	「六.四」民運史	韓文甫	1999	14	HKC(2), KC(2), TMU(2), CH, CW, FL, LH, MOS, QB, ST, TP	3	HKC(2), TW
31	八九民運：血染的歷史	馬龍	1999	0	/	1	HKC
32	天安門上看中國. 下卷 = China seen from Tiananmen	黃彥，安慶國	1999	24	HKC(3), FL(2), TKO(2), SS(2), KN, KS, MO1, MO3, MO4, MW, PC, STK, TH, TO, TP, TSW, TW, TY, YL	1	HKC

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
33	天安門上看中國．上卷 = China seen from Tiananmen	黃彥， 安慶國	1999	23	HKC(4), TKO(2), FL(2), CC, CW, KN, KS, MO2, MO3, MO4, MW, STK, TMU, TP, TSW, TW, TY, WK	1	HKC
34	天安門事件後中共與美國外交內幕：一位中國大陸外交官的歷史見證	陳有為	1999	3	HKC(2), CH	1	HKC
35	王丹獄中家書	王丹	1999	38	HKC(3), KC(2), AB, CH, CW, ER, FY, KCI, KM, KN, KS, LCK, LF, LH, LHI, LT, NP, NTK, PFL, PO, SL, SMP, SPK, SR, STT, SW, TKT, TKW, TP, TWS, UCS, WNC, YL, YMT, YT	1	HKC
36	見證屠殺 尋求正義：六四傷殘者和死難者家屬證詞	六四傷殘者和死難者家屬證詞	1999	0	/	1	HKC
37	聽風隨筆：王丹獄中詩文集	王丹	1999	15	HKC, CH, CW, ER, KC, LF, LH, MOS, PO, QB, SPK, STT, SW, TC, TSWS	1	HKC
38	六四追擊漫畫冊：時光倒流八九年	香港天主教正義和平委員會國是組	1998	4	HKC, CH, TW, TMU	3	HKC, KC, ST
39	天安門：知識分子與中國革命	斯彭斯 (Spence, Jonathan D.)	1998	3	HKC, STT, TP	1	HKC
40	天安門悲歌	師東兵	1998	1	HKC	1	HKC
41	天安門廣場歷史檔案	樹軍	1998	0	/	1	HKC
42	走上天安門	董保存	1998	2	HKC, CH	0	/
43	六四的內情：未完成的涅槃	包遵信	1997	0	/	1	HKC
44	天安門廣場風雲錄	金岸	1997	0	/	1	HKC
45	王丹獄中回憶錄	王丹	1997	0	/	2	HKC, KC
46	天安門之變：八九民運史	陳小雅	1996	1	HKC	1	HKC

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
47	腳印與戰叫：支聯會「六四」七周年紀念圖片集	麥海華	1996	31	HKC(2), ALC, CC, ER, FS, HH, KC, KCI, LCK, LH, LMN, LMS, MO1, MO2, MO3, MO5, PC, PO, SPK, SR, STK, TH, TKO, TO, TST, TWS, TY, WNC, YT, PFL	4	HKC(3), KC
48	「六四」受難者名冊	丁子霖	1994	1	ST	1	HKC
49	天安門悲歌	師東兵 (天地)	1994	3	HKC, LCK, MOS	2	CH, KC
50	永誌不忘：六四受難者尋訪實錄。第1輯	丁子霖	1994	0	/	1	CH
51	中國民運反思	胡平	1992	12	ALC, SKT, NTK, KN, NP, PO, SPK, STT, SW, KS, YMT, YL	3	HKC(2), KC
52	天安門下的握手：北平和平解放內幕	舒雲	1992	0	/	2	HKC, KC
53	天安門評論 = Tiananmen review	天安門民主大學海外復校計劃香港籌備處	1992	0	/	1	HKC
54	末日倖存者的獨白：關於我和[六.四]	劉曉波	1992	1	KC	1	HKC
55	歷史的見證：天安門廣場 1989.4.15-6.4	大公報	1989	1	KC	1	HKC
56	八九中國民運資料冊	香港中文大學學生會	1991	0	/	1	HKC
57	六四血紅的黎明：加拿大華人紀念八九民運詩文及圖片選集 = The blood red dawn on June 4 : selected essays of Chinese Canadians supporting the pro-democracy movement in China (with photographs)	多倫多支援中國民運出版基金編輯委員會	1991	0	/	1	HKC
58	天安門廣場清場紀實	吳仁華	1991	0	/	1	HKC

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
59	漆黑將不再面對：八九中國民運專輯：香港支援民運圖片集	香港市民支援愛國民主運動聯合會	1991	36	HKC(2), ALC, CC, CW, FS, HH, KC, KS, LF, LH, LMN, LMS, MO1, MO2, MO4, MW, NP, NTK, PFL, PO, PT, SKT, SL, SMP, SS, SW, TKO, TO, TST, TWS, UCS, WK, WNC, YL, YT	4	HKC(2), KC, CH
60	八九中國民運見証報告專輯 = Witness reports on the democratic movement of China '89	香港市民支援愛國民主運動聯合會	1990	27	LF, LMN, LMS, NCW, PO, PT, QB, STK, UCS, KC, TP, CH, ALC, CW, HKC, KCI, LH, NTK, SK, SPK, SR, TKO, TST, TWS, TY, WNC, YT	5	HKC(3), CH, KC
61	八九中國民運報章廣告專輯	香港市民支援愛國民主運動聯合會	1990	4	CH, ST, TMU, TW	3	HKC(2), KC
62	八九中國民運鎮壓迫害專輯	香港市民支援愛國民主運動聯合會	1990	1	ST	1	HKC
63	八九民運的回顧與前瞻：六四周年紀念特輯	新苗社	1990	0	ST	1	HKC
64	天安門血案經緯	胡志偉	1990	0	/	1	HKC
65	天安門的反思	程翔	1990	0	/	1	HKC
66	柴玲：中國的和平鬥士	陳靖偉	1990	0	/	1	HKC
67	血與淚：八九學運札記	[凌峰]	1990	30	HKC(2), ALC, CC, CW, KC, KN, LCK, LF, LH, LMN, LMS, MO1, MO3, MO5, MW, PFL, PO, QB, SKT, SMP, TH, TP, TST, TWS, TY, UCS, WNC, YL, YT	4	HKC(2), CH, KC
68	「6.4大屠殺」評析	梁文貴	1989	0	/	1	HKC
69	人民不會忘記	香港記者協會	1989	0	/	2	TMU

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
70	人民不會忘記：89民運實錄(初版)	陳杰文 ... [等]	1989	0	/	1	HKC
71	人民不會忘記：89民運實錄(增訂版)	陳杰文 ... [等]	1989	2	HKC, KC	2	HKC, TMU
72	八九中國民運報章頭版專輯	香港市民支援北京愛國民主運動聯合會	1989	3	HKC(2), KC	3	HKC(2), KC
73	六四餘震	明報出版社	1989	1	HKC	2	HKC, KC
74	天安門之火：民運89畫冊	李志達	1989	10	AB, CH, ER, KCI, LT, QB, SW, YMT, HKM, KN	3	HKC(2), KC
75	火在燒，血在燒：獻給天安門勇士	行政院新聞局	1989	0	/	1	HKC
76	北京學運：歷史的見證	《北京學運》編輯委員會	1989	9	HKC(3), TMU(2), CH, KC, MOS, SPK	5	HKC(3), KC, TW
77	血洗京華實錄	香港文匯報	1989	2	HKC, KC	4	HKC(2), KC, ST
78	兩次天安門事件	刑天、一葉	1989	35	HKC(2), ALC, CC, CW, FS, HH, KCI, KS, LCK, LH, LMN, LT, MO1, MO3, MO5, MW, NTK, PFL, QB, SK, SKT, SPK, SR, ST, STK, TH, TKO, TMU, TP, TWS, TY, WNC, YL, YMT	3	HKC, KC, CH
79	對中國民運的認識與反省資料選輯	《對中國民運的認識與反省資料選輯》編輯小組	1989	0	/	1	HKC
80	嘶叫與回響：「香港電台」記者集體採訪	馮玉蓮 ... [等]	1989	10	HKC, CW, KC, LH, PO, SPK, SW, SR, TKO, TST	4	HKC(4)
81	歷史的創傷：1989中國民運史料彙編. 下冊	寒山碧編	1989	1	KC	1	CH



No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
82	歷史的創傷：1989中國 國民運史料彙編．上冊	寒山碧編	1989	1	KC	2	CH, HKC
83	天安門一九八九年	聯合報編輯部編	1987	0	/	1	HKC
84	柴玲自白書	/		1	KC	1	HKC
85	Prisoner of the state : the secret journal of Zhao Ziyang #	Zhao, Ziyang.	2009	4	HKC, CH, KC, ST	1	HKC
86	Beijing coma	Ma, Jian, 1953-	2008	5	HKC, CH, ST, LCK, STA	1	HKC
87	China since Tiananmen : from Deng Xiaoping to Hu Jintao	Fewsmith, Joseph, 1949-	2008	3	HKC, SS, YMT	0	/
88	The man on Mao's right : from Harvard yard to Tiananmen Square, my life inside China's Foreign Ministry	Ji, Chaozhu, 1929-	2008	6	HKC, KS, LH, SS, TKW, YMT	1	HKC
89	Living with reform : China since 1989	Cheek, Timothy.	2006	5	HKC, KC, ST, TMU, TW	2	HKC, TW
90	Beyond Tiananmen : the politics of U.S. - China relations, 1989-2000	Suettinger, Robert.	2003	2	HKC, TW	1	HKC
91	The Tiananmen Square massacre		2003	3	HKC, KC, ST	1	HKC
92	Chinese democracy after Tiananmen /	Ding, Yijiang.	2002	4	HKC, CH, KC, TP	0	/
93	After the fall : 1989 and the future of freedom		2001	1	HKC	1	HKC
94	China since Tiananmen : the politics of transition	Fewsmith, Joseph, 1949-	2001	4	HKC, CH, KC, FL	0	/
95	Chinese democracy after Tiananmen /	Ding, Yijiang.	2001	1	HKC	1	HKC
96	Lili : a novel of Tiananmen	Wang, Annie, 1972-	2001	6	HKC, CH, KC, ST, TMU, TW	0	/
97	The power of Tiananmen : state-society relations and the 1989 Beijing student movement	Zhao, Dingxin.	2001	0	/	1	HKC

<i>No.</i>	<i>Title</i>	<i>Author</i>	<i>Pub. Year</i>	<i>Lending Copies</i>	<i>Lending Libraries</i>	<i>Reference Copies</i>	<i>Reference Libraries</i>
98	The Tiananmen papers		2001	8	CH(2), TMU(2), HKC, KC, ST, TW	2	HKC, KC
99	Quelling the people : the military suppression of the Beijing democracy movement	Brook, Timothy, 1951-	1998	3	HKC, CH, KC	1	HKC
100	China live : two decades in the heart of the dragon	Chinoy, Mike.	1997	4	HKC, CH, QB, TP	4	CH, ST, TMU, TW
101	Hong Kong's social movements : forces from the margins		1997	6	HKC(2), KC, ST, LCK, LH	6	HKC, CH, KC, ST, TMU, TW
102	Summer of betrayal	Hong, Ying, 1962-	1997	0	/	1	HKC
103	Political pragmatism on the Chinese campus since 1989	Chan, Che-po.	1996	1	TMU	1	HKC
104	The legacy of Tiananmen : China in disarray	Miles, James A. R., 1961-	1996	3	ST, TMU, TW	1	CH
105	The ordinary and the extraordinary : an anthropological study of Chinese reform and the 1989 People's Movement in Beijing	Pieke, Frank N.	1996	1	TW	1	ST
106	China after Deng Xiaoping : the power struggle in Beijing since Tiananmen	Lam, Willy Wo-lap.	1995	11	HKC, CH, ER, HH, LCK, STA, SS, TP, TSWs, TST, UCS	3	HKC, ST, TW
107	China and the American dream : a moral inquiry	Madsen, Richard, 1941-	1995	0	/	1	HKC
108	China since Tiananmen : political, economic, and social conflicts		1995	34	HKC(2), CH, KC, AB, ALC, CW, ER, FY, HH, KCI, LCK, LT, LH, LF, LHI, KM, TM, NCW, NP, PT, PO, PFL, QB, SPK, SMP, STT, SW, SR, TST, UCS, WNC, YMT, YT	12	ST(2), HKC, CH, KC, TMU, TW, FL, KS, TSW, TY, YL

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
109	Wild lily, prairie fire : China's road to democracy, Yan'an to Tian'anmen, 1942-1989		1995	4	HKC, CH, TW, TY	5	HKC, KC, ST, TMU, TW
110	The factual account of a search for the June 4 victims (vol. 1 - vol. 2)	Ding, Zilin.	1994-95	8	CH(2 volumes), KC(2 volumes), TMU(2 volumes), TW(2 volumes)	4	HKC, ST
111	Chinese people's movement, spring 1989		1994	0	/	1	HKC
112	Mandate of heaven : a new generation of entrepreneurs, dissidents, bohemians, and technocrats lays claim to China's future	Schell, Orville, 1940-	1994	5	HKC(2), CH, TST, TY	3	HKC(2), ST
113	Neither gods nor emperors : students and the struggle for democracy in China	Calhoun, Craig J., 1952-	1994	13	HKC(2), CH, TW, LCK, KN, KS, SK, SS, TKO, TSW, TY, YL	1	HKC
114	Popular protest and political culture in modern China		1994	0	/	1	HKC
115	Resistance, chaos, and control in China : Taiping rebels, Taiwanese ghosts, and Tiananmen	Weller, Robert P. (Robert Paul), 1953-	1994	6	HKC(2), CH, AB, FY, SW	2	HKC, KC
116	Black hands of Beijing : lives of defiance in China's democracy movement	Black, George	1993	3	HKC, CH, QB	1	HKC
117	Chinese democracy and the crisis of 1989 : Chinese and American reflections		1993	3	HKC, QB, SPK	1	CH
118	The truth about the Beijing turmoil = 北京風波紀實		1993	0	/	1	HKC
119	Popular protest and political culture in modern China : learning from 1989		1992	2	CH, TST	2	HKC, CH
120	Popular protest in the 1989 democracy movement : the pattern of grass-roots organization	Walder, Andrew G. (Andrew George), 1953-	1992	1	ST	1	HKC

<i>No.</i>	<i>Title</i>	<i>Author</i>	<i>Pub. Year</i>	<i>Lending Copies</i>	<i>Lending Libraries</i>	<i>Reference Copies</i>	<i>Reference Libraries</i>
121	Quelling the people : the military suppression of the Beijing democracy movement	Brook, Timothy, 1951-	1992	0	/	1	HKC
122	The aftermath of the 1989 Tiananmen crisis in Mainland China		1992	1	TST	1	HKC
123	The dragon's brood : conversations with young Chinese	Rice, David, 1934-	1992	3	CH, TW, SS	1	ST
124	The struggle for Tiananmen : anatomy of the 1938-1989 mass movement	Lin, Nan, 1938-	1992	0	/	1	HKC
125	Tiananmen Square, spring 1989 : a chronology of the Chinese democracy movement	Han, Theodore.	1992	1	HKC	1	HKC
126	Almost a revolution	Shen, Tong, 1968-	1991	0	/	1	HKC
127	Chaos under heaven : the shocking story of China's search for democracy	Thomas, Gordon.	1991	1	LH	1	HKC
128	China's students : the struggle for democracy	Cherrington, Ruth, 1955-	1991	2	KC, TW	1	HKC
129	The dragons of Tiananmen : Beijing as a sacred city	Meyer, Jeffrey F.	1991	4	TW(2), SS(2)	2	HKC, ST
130	Lee Kuan Yew on China and Hongkong after Tiananmen	Lee, Kuan Yew, 1923-	1991	1	CH	1	CH
131	Worm-eaten hinges : tensions and turmoil in Shanghai, 1931-1988-9	Grant, Joan, 1931-	1991	0	/	1	HKC
132	Behind the Tiananmen Massacre : social, political, and economic ferment in China	Cheng, Chu-yuan.	1990	0	/	1	HKC
133	Beijing spring, 1989 : confrontation and conflict : the basic documents		1990	0	/	1	CH
134	China : from the long march to Tiananmen Square		1990	4	LCK, STT, CH, KC	1	HKC

<i>No.</i>	<i>Title</i>	<i>Author</i>	<i>Pub. Year</i>	<i>Lending Copies</i>	<i>Lending Libraries</i>	<i>Reference Copies</i>	<i>Reference Libraries</i>
135	Chinese society on the eve of Tiananmen : the impact of reform		1990	5	CH, LCK, LT, QB, YMT	2	CH, KC
136	Cries for democracy : writings and speeches from the 1989 Chinese democracy movement		1990	2	KC(2)	1	CH
137	Lee Kuan Yew on China and Hongkong after Tiananmen = 李光耀看六四後的中國.香港	Lee, Kuan Yew, 1923-	1990	3	CH, KC, ST	1	HKC
138	Legacies : a Chinese mosaic	Lord, Bette.	1990	9	HKC(2), CH(2), TMU, SW, YL, LH, SS	2	HKC, ST
139	Moving the mountain : my life in China from the Cultural Revolution to Tiananmen Square	Li, Lu, 1966-	1990	14	HKC, CH, AB, ALC, ER, LCK, SKT, LH, LF, PO, QB, SPK, SW, TKW	1	HKC
140	The Broken mirror : China after Tiananmen		1990	4	KC, ST, TMU, TW	1	HKC
141	The eyes have it = 六四見證		1990	2	CH, KC	1	HKC
142	Beijing spring	Liu, Melinda.	1989	10	SMP(2), HKC, CW, KCI, NTK, NP, QB, STT, UCS	2	CH, KC
143	Crisis at Tiananmen : reform and reality in modern China	Yi, Mu.	1989	3	KC, LH, YMT	2	HKC, KC
144	June Four : a chronicle of the Chinese democratic uprising		1989	0	/	1	TW
145	Massacre in Beijing : China's struggle for democracy		1989	0	/	1	HKC
146	Tiananmen	Chua, Morgan, 1949-	1989	1	KC	1	HKC
147	Tiananmen : the rape of Peking	Father, Michael	1989	1	KC	1	CH
148	Tiananmen diary : thirteen days in June	Salisbury, Harrison E. (Harrison Evans), 1908-1993	1989	10	AB, CH, NTK, NP, PFL, STT, SW, TKW, YMT, TM	3	HKC, KC, ST

No.	Title	Author	Pub. Year	Lending Copies	Lending Libraries	Reference Copies	Reference Libraries
149	Tiananmen square	Simmie, Scott.	1989	4	KC, AB, CW, STT	4	CH, ST, TMU, TW

Notes:

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Remarks: For the agency codes, please refer to the following table:

	代號 (Agency Code)	圖書館 (Libraries)		代號 (Agency Code)	圖書館 (Libraries)		代號 (Agency Code)	圖書館 (Libraries)
1	AB	香港仔 Aberdeen	27	MO1	流動一 Mobile Library 1	53	STT	石塘咀 Shek Tong Tsui
2	ALC	鴨脷洲 Ap Lei Chau	28	MO2	流動二 Mobile Library 2	54	SW	瑞和街 Shui Wo Street
3	CC	長洲 Cheung Chau	29	MO3	流動三 Mobile Library 3	55	SWK	石圍角 Shek Wai Kok
4	CH	大會堂 City Hall	30	MO4	流動四 Mobile Library 4	56	TC	東涌 Tung Chung
5	CW	柴灣 Chai Wan	31	MO5	流動五 Mobile Library 5	57	TH	大興 Tai Hing
6	ER	電氣道 Electric Road	32	MO9	流動九 Mobile Library 9	58	TKO	將軍澳 Tseung Kwan O
7	FL	粉嶺 Fanling	33	MOS	馬鞍山 Ma On Shan	59	TKT	大角咀 Tai Kok Tsui
8	FS	富山 Fu Shan	34	MW	梅窩 Mui Wo	60	TKW	土瓜灣 To Kwa Wan
9	FY	花園街 Fa Yuen Street	35	NCW	牛池灣 Ngau Chi Wan	61	TM	流動八 Mobile Library 8
10	HH	紅磡 Hung Hom	36	NP	北角 North Point	62	TMU	屯門 Tuen Mun
11	HKC	香港中央 Hong Kong Central	37	NTK	牛頭角 Ngau Tau Kok	63	TO	大澳 Tai O
12	HKM	流動六 Mobile Library 6	38	PC	坪洲 Peng Chau	64	TP	大埔 Tai Po
13	KC	九龍 Kowloon	39	PFL	薄扶林 Pok Fu Lam	65	TST	尖沙咀 Tsim Sha Tsui
14	KCI	九龍城 Kowloon City	40	PO	保安道 Po On Road	66	TSW	天水圍 Tin Shui Wai
15	KM	流動七 Mobile Library 7	41	PT	白田 Pak Tin	67	TSWS	天水圍北 Tin Shui Wai North
16	KN	北葵涌 North Kwai Chung	42	QB	鯪魚涌 Quarry Bay	68	TW	荃灣 Tsuen Wan
17	KS	南葵涌 South Kwai Chung	43	SK	西貢 Sai Kung	69	TWS	慈雲山 Tsz Wan Shan
18	LCK	荔枝角 Lai Chi Kok	44	SKT	鯉魚門 Lei Yue Mun	70	TY	青衣 Tsing Yi
19	LF	樂富 Lok Fu	45	SL	順利邨 Shun Lee Estate	71	UCS	元洲街 Un Chau Street
20	LH	駱克道 Lockhart Road	46	SMP	秀茂坪 Sau Mau Ping	72	WK	蝴蝶邨 Butterfly Estate
21	LHI	龍興 Lung Hing	47	SPK	新蒲崗 San Po Kong	73	WNC	黃泥涌 Wong Nai Chung
22	LMN	南丫島北段 North Lamma	48	SR	士美非路 Smithfield Road	74	YL	元朗 Yuen Long
23	LMS	南丫島南段 South Lamma	49	SS	上水 Sheung Shui	75	YMT	油麻地 Yau Ma Tei
24	LT	藍田 Lam Tin	50	ST	沙田 Sha Tin	76	YT	耀東邨 Yiu Tung Estate
25	LY	瀝源 Lek Yuen	51	STA	赤柱 Stanley			
26	M10	流動十 Mobile Library 10	52	STK	沙頭角 Sha Tau Kok			

## Annex 2

### Library Materials on the June Fourth Incident and Related Topics Titles with Readers' Reservation as at 15 June 2009

No.	Title	Author	Pub. Year	Lending copies	Lending Libraries	Reference copies	Reference Libraries	No. of holds
1	Prisoner of the state : the secret journal of Zhao Ziyang #	Zhao, Ziyang.	2009	4	HKC, CH, KC, ST	1	HKC	64

No.	Title	Author	Pub. Year	Lending copies	Lending Libraries	Reference copies	Reference Libraries	No. of holds
2	改革歷程 <sup>#</sup>	趙紫陽	2009	25	AB, CC, CH, CW, FL, HKC, KC, KS, LCK, LH, MOS, NCW, NTK, SK, SPK, SS, ST, STT, TKO, TMU, TP, TSW, TW, YL, YMT	1	HKC	196
3	人民不會忘記：八九民運實錄 <sup>#</sup>	六十四名香港記者	2009	20	CH, FY, FL, HKC, KC, LH, NCW, PO, QB, SPK, ST, SW, TP, TKW, TKO, TY, TW, TMU, YMT, YL	1	HKC	50
4	人民不會忘記：89民運實錄（增訂版）	陳杰文...[等]	1989	2	HKC, KC	2	HKC, TMU	20
5	歷史的大爆炸：「六四」事件全景實錄 <sup>#</sup>	張萬舒	2009	15	CH, FS, HKC, KC, NTK, SK, SPK, SR, SS, ST, STT, TMU, TP, TSW, TW	1	HKC	17

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### Protecting Consumers who Purchase Pre-paid Services

10. **MR FRED LI** (in Chinese): *President, about protecting consumers who purchase pre-paid services, will the Government inform this Council:*

- (a) *given that currently, the contracts for pre-paid services (such as body-building, slimming, beauty care and car washing) generally do not contain a cooling-off period clause which allows consumers to cancel the contracts and get back the entire pre-paid amounts unconditionally, whether the Government will follow the practice of foreign countries (such as Singapore) and introduce legislation to require that contracts for pre-paid services shall contain such a clause, so as to protect the interests of consumers;*
- (b) *whether it will make reference to the mode of operation of the Travel Industry Compensation Fund and collect a levy from pre-paid service operators and set up a compensation fund, so that consumers will be compensated for the pre-paid amounts by the compensation*

*fund in the event that the service operators concerned close down their businesses or fail to provide the relevant services; and*

- (c) *of the measures in the short term to protect consumers who purchase pre-paid services before the compensation fund is set up?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, accepting prepayment for goods and services is a fairly common business practice. Consumers would normally enjoy discounts under such an arrangement, and traders may also strengthen their cashflow. In deciding whether to opt for prepayment, consumers should consider carefully the advantages and potential risks associated with such an arrangement.

Our reply to the three parts of the question is set out below:

- (a) At present, some industries have voluntarily put in place arrangements similar to cooling-off periods. For instance, the Travel Industry Council of Hong Kong has introduced the "Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers". Under this scheme, overseas visitors who are dissatisfied with a purchase can request for a full refund within 14 days after the transactions, and mainland visitors may do so within 180 days. Separately, the Life Insurance Council of the Hong Kong Federation of Insurers has introduced a cooling-off period to allow more time for policy holders to consider their decisions.

We are aware that in some overseas countries, cooling-off arrangements are provided for in certain types of transactions. We are examining the feasibility of introducing cooling-off periods, as well as the criteria to determine the types of transactions that should have such an arrangement.

- (b) Given the different nature and modes of operation of different industries, and the fact that establishing compensation funds would involve administrative costs and moral hazards, we have no intention at the moment to establish compensation funds for the services industries. We are however examining how the existing legislation



can be amended to tackle specifically unfair trade practices in the services industries.

- (c) Currently, the Unconscionable Contracts Ordinance (Cap. 458) empowers the Court to refuse to enforce the unconscionable part of a contract. In determining whether a contractual provision is unconscionable, the Court may consider relevant circumstances, such as whether the concerned clause is necessary to protect the legitimate interests of the trader, and whether the consumer has been subject to any undue influence, pressure or unfair tactics. In addition, the Supply of Services (Implied Terms) Ordinance (Cap. 457) stipulates that a supplier should provide its service with reasonable care and skill. Where the time for the provision of services is not set out in the contract, the supplier should provide the service within a reasonable time. As set out in part (2) of my reply, we are examining how the existing legislation can be amended to tackle unfair trade practices in the services industries.

Apart from legal protection, consumer education is equally important. The Consumer Council regularly provides consumer information to the public through publicity, the media and the "Choice" magazine, advising consumers the benefits and risks involved in prepayment arrangements, and reminding them to consider not only the quality of the goods and services, but also their personal financial situation, the credibility of the traders and their own needs.

### **Cases Assessed Under Standardized Care Need Assessment Mechanism for Elderly Services**

11. **MR LEUNG KWOK-HUNG** (in Chinese): *President, from its implementation in November 2000 until 28 February 2009, the Standardized Care Need Assessment Mechanism for Elderly Services (the Mechanism) had completed assessment for 134 770 cases. In this connection, will the Government set out in the table below the number of cases for which assessment was completed in each financial year, broken down by the District Council district in which the elderly people concerned resided and the disease(s) which they were suffering from as revealed by the assessment results?*



Year (200x-200x)	Number of cases for which standardized care need assessment was completed in the financial year: ____																			
Diseases which the elderly people were assessed to be suffering from	Central & Western	Eastern	Southern	Wan Chai	Kowloon City	Kwun Tong	Sham Shui Po	Wong Tai Sin	Yau Tsim Mong	Islands	Kwai Tsing	North	Sai Kung	Tai Po	Sha Tin	Tsuen Wan	Tuen Mun	Yuen Long	Total	
Diabetes																				
Emphysema/ COPD*/ asthma																				
Arthritis																				
Hip fracture																				
Other fractures																				
Osteoporosis																				
Renal failure																				
Total																				

\* Chronic obstructive pulmonary disease

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

Since November 2000, the Social Welfare Department (SWD) has implemented the Mechanism to assess the long-term care needs of elders. Under the Mechanism, accredited assessors will assess the care needs of elders with an internationally recognized assessment tool named "Minimum Data Set-Home Care" (MDS-HC) and match appropriate long-term care services for the elders. Assessors will conduct comprehensive assessments on the applicants' abilities in activities of daily living, physical functioning, memory, communication skills, behaviour and emotion, health conditions, living environment and coping capabilities, and so on, in order to ascertain their long-term care needs and recommend suitable services.

In our reply to Mr LEUNG Kwok-hung's written question on 17 June, we have set out the number of assessment cases completed in each financial year from November 2000 to February 2009. Figures provided in the relevant reply are as follows:

<i>Year</i>	<i>No. of assessment cases completed within the year</i>
2000-2001 (November 2000-March 2001)	2 408
2001-2002	12 126
2002-2003	12 997
2003-2004	12 162
2004-2005	17 691
2005-2006	19 033
2006-2007	18 980
2007-2008	20 585
2008-2009 (April 2008-February 2009)	18 788
Total	134 770

The various diseases mentioned in the question constitute part of MDS-HC. They are for understanding the health conditions of the elders, so that the concerned staff can refer to such conditions when formulating individual care plans for the elders. As mentioned above, when conducting assessment for each applicant, the assessor will consider various aspects of the elder's condition before recommending appropriate services. The SWD has not compiled statistics for individual diseases mentioned in the question.

### **Comprehensive Report on Consumer Spending**

12. **DR DAVID LI:** *President, in other developed economies, such as the United States and Japan, statistics on consumer spending cover both goods and services and are published monthly by the Governments concerned. However, in Hong Kong, monthly reports on consumer spending compiled by the Census and Statistics Department (C&SD) are limited to retail sales only and reports on the overall consumer spending are available only in the Reports of the Gross Domestic Product (GDP) released quarterly. In this connection, will the Government inform this Council:*

- (a) *whether it currently collects data that allow it to publish a comprehensive report on consumer spending on goods and services on a monthly basis;*

- (b) *when it last evaluated the composition of the monthly reports on consumer spending, and the reasons for such reports covering retail sales only; and*
- (c) *whether there is evidence that the composition of consumer spending has changed since the last evaluation, and whether it will consider collecting and publishing consumer spending figures on a monthly basis?*

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

- (a) The C&SD collects monthly data on retail sales and publishes a monthly report of retail sales with breakdown by broad categories of retail outlets to provide an indicator of the trend of short-term economic performance. In respect of consumer spending on goods and services, the current practice of data collection allows the C&SD to compile a quarterly data series which is released under the private consumption expenditure component in the quarterly expenditure-based GDP data series. Same as Hong Kong, a number of other statistically advanced economies including the United Kingdom, Australia, Canada and New Zealand also publish their consumer spending statistics on a quarterly basis.
- (b) and (c)

As mentioned in our reply to part (a), the C&SD publishes monthly reports on retail sales, which forms the most important component of consumer spending on goods. Subsequent to an evaluation on the availability of monthly data completed in 2007, the C&SD will, commencing in 2010, publish monthly data series on restaurant receipts and purchases by type of restaurants on a quarterly basis. As consumption expenditure on catering services is one of the prominent components of consumer spending on services, the availability of a monthly data series on restaurant receipts and purchases will enhance short-term economic analysis. The C&SD

will keep in view the need for compiling and publishing monthly data on other types of consumer spending on services taking into account other competing priorities.

The proportions of consumer spending on goods and services have remained stable over recent years. The C&SD will continue to monitor the relative importance of various goods and service components in consumer spending.

### **Support Services for Homosexuals**

13. **MR WONG SING-CHI** (in Chinese): *President, when I met some homosexuals and ex-homosexuals recently, they relayed to me that support was often lacking when homosexuals wished to abandon their homosexual life style or change their sexual orientation. In this connection, will the Executive Authorities inform this Council:*

- (a) of the current government policy on the provision of the aforesaid support services for homosexuals; whether the policy is based on an endorsement of the view that homosexual behaviour cannot be changed, as well as the concept that the provision of such services is an act of discrimination against homosexuals; if so, of the reasons for that;*
- (b) whether the Government currently provides counselling services for homosexuals who wish to change their sexual orientation; if so, of the details; if not, the reasons for that;*
- (c) whether it knows if there are non-governmental organizations (NGOs) providing such support services; if there are, of the annual number of persons receiving these services and the details of such services; if it does not know if there are such NGOs, whether it will plan to collect the relevant data; and*
- (d) whether it had received any complaint in the past five years about the inadequacy of such support services; if it had, of the details?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Chinese): President,

(a) and (b)

The Social Welfare Department (SWD) does not have any services specifically targeting at helping homosexual individuals. Support services in Hong Kong run by both the SWD and NGOs, including those provided by Clinical Psychological Units, Integrated Family Service Centres/Integrated Services Centres, Medical Social Service Units and services for young people like School Social Work Service, Integrated Children and Youth Services Centres and Outreaching Social Work Service, and so on, are available to all Hong Kong residents irrespective of their gender, race, sexual orientation and so on. In supporting individuals who are homosexuals, the relevant service units will provide them as well as their families with counselling, referral and other services as appropriate. If an individual with homosexual preference wishes to change his or her lifestyle or sexual orientation, the SWD and NGOs will respect the informed choice of such an individual and render appropriate service and support.

Individual homosexuals who encounter emotional or mental health problems due to their sexual orientation may be referred by general practitioners to receive consultation services at the psychiatric departments of the Hospital Authority (HA). The psychiatrists or allied health professionals (for example, clinical psychologists) in the HA will assess the mental health conditions of these persons and provide suitable mental health services, including psychological counselling services where necessary.

The provision of support services to those homosexuals who voluntarily seek and use them in order to convert their sexual orientation or change their way of life cannot be regarded as being discriminatory against homosexuals on the ground of their sexual orientation.

(c) The Administration is aware that a non-government subvented NGO provides such support services. According to the information

available on its website, the NGO provides assistance to persons who have problems as regards their homosexuality and provide suitable assistance to those homosexuals who have decided to change their sexual orientation. Information on the annual number of persons receiving such services is not available.

- (d) Since the establishment of the Gender Identity and Sexual Orientation Unit in May 2005, we have not received any complaints about the inadequacy of such support services.

### **Development of Hong Kong's Air Freight Industry**

14. **MS MIRIAM LAU** (in Chinese): *President, it has been reported that the Guangzhou Municipal authorities are actively pushing ahead with various construction projects in order to complement the implementation of the Framework for Development and Reform Planning for Pearl River Delta Region, including increasing the number of runways at the Baiyun International Airport (BIA) from two at present to five, with the aim of developing it into the biggest airport in the Pearl River Delta (PRD) Region. They will also prepare for the establishment of the Baiyun Airport Comprehensive Bonded Zone, in order to enhance its ability to attract air freight business for cargoes from the PRD Region. In this connection, will the Government inform this Council:*

- (a) *whether it knows how the growth rates in the past three years in air cargo throughput in Hong Kong compare with those of Guangzhou, and whether it has estimated the impact on Hong Kong's air cargo throughput upon the completion of the third runway at BIA next year;*
- (b) *given that the Airport Authority Hong Kong commissioned a study last year on the engineering and environmental feasibility of building the proposed third runway at the airport in Hong Kong, of the progress of the study, and when a final proposal is expected to be made in this regard, as well as the measures to be taken by the authorities before that to raise, before 2015, the current runway capacity to 68 flight movements per hour; and*



- (c) *given that the Guangzhou Municipal authorities are striving for Guangzhou's air freight industry to catch up with its counterpart in Hong Kong by improving the hardware and software (that is, services) at BIA, in the face of such a menacing threat, of the authorities' medium-term and long-term objectives and plans (especially in terms of logistics and transport infrastructures, increasing the number of international routes, sourcing for more transshipment goods, and so on) to increase the competitiveness of Hong Kong's air freight industry?*

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

- (a) The cargo throughput of the Hong Kong International Airport (HKIA) in 2008 was 3.63 million tonnes, and the growth rates from 2006 to 2008 were +5.3%, +4.5% and -3% respectively. For Guangzhou BIA, the cargo throughput in 2008 was 690 000 tonnes and the growth rates from 2006 to 2008 were +8.3%, +6.2% and 0% respectively. The HKIA's cargo handling capacity will be more than 6.6 million tonnes per annum upon completion of the new cargo terminal awarded last year which is no later than mid 2013. According to the information published by Guangzhou BIA, its cargo handling capacity will reach 2.17 million tonnes per annum upon completion of airport expansion works. However, the impact of nearby airport developments on the HKIA's cargo throughput depends on the overall comparative competitive advantages of airports. The important factors involved include airport efficiency, the total costs involved in cargo flow, the simplification and efficiency of custom procedures and so on. On the one hand, we will not be complacent, and on the other hand, we will proactively strengthen our competitiveness. It is not comprehensive to assess the impact on the overall competitive advantages purely on the basis of specific increases in the airport handling capacity.
- (b) On enhancing the runway capacity, the Civil Aviation Department will continue to recruit manpower, strengthen training and improve air traffic management procedures and facilities. We are confident that on the basis of the current two-runway configuration, we can gradually increase the runway capacity to 68 aircraft movements per

hour by 2015. With progress to be made on the use of airspace and co-ordination of air traffic management in the PRD Region by civil aviation authorities of the Mainland, Macao and Hong Kong, we will consider at an appropriate juncture if the target can be further increased. In order to increase the runway capacity in the long term, the Airport Authority (AA) commissioned in August 2008 the engineering and environmental feasibility studies for the third runway, which take about two years to complete.

- (c) In view of the keen competition from neighbouring areas, Hong Kong needs to expand its cargo hinterland and enhance its competitive advantages. This includes strengthening the training for logistics professionals, continuing to promote e-logistics, enhancing its ability to provide tailor-made logistics services, as well as providing solutions to complicated tasks. At the same time, we proactively improve the transport links with the PRD Region to expand the cargo catchment areas of the HKIA. The Marine Cargo Terminal on the Airport Island now operates 24 hours a day to 17 ports in the PRD Region. The completion of the Hong Kong-Zhuhai-Macao Bridge will connect Hong Kong directly to the western part of the PRD Region by road, expanding Hong Kong's cargo hinterland. On the airport infrastructure front, we will continue to pursue with the AA the midfield expansion project and complete the Airport Master Plan 2030 Study to lay the foundation for the long-term competitiveness of the HKIA in handling air cargo. Moreover, we will continue to proactively expand the bilateral air services arrangements with our aviation partners to support the development of the aviation industry, create opportunities for the industry to develop more market products, and attract more cargo flows to hub at the HKIA.

### **Handling Cases of Unlawful Occupation of Government Land**

15. **MS AUDREY EU** (in Chinese): *President, I have received complaints from members of the public who said that as early as the 1990s, they had lodged complaints with the Lands Department (LandsD) about the illegal conversion of a footpath at San Tin Park, which had been designated for a specific use, into a vehicular access. Upon the release of the investigation report of The Office of*

*The Ombudsman in 2008, the LandsD undertook to reinstate the footpath expeditiously. In its recent reply to me, the LandsD stated that it would use the regularization approach in handling the case and would not take action against such unlawful acts. It also indicated that using the regularization approach in handling cases of unlawful occupation of government land is an established and pragmatic policy of the Government. In this connection, will the Government inform this Council:*

- (a) *whether it had used the regularization approach in the past in handling cases of unlawful occupation of government land which had been designated for a specific use or was not vacant; of the following details of each case, handled by the Government using the regularization approach in the past three years, of unlawful occupation of government land which had been designated for a specific use or was not vacant;*

<i>Location</i>	<i>Area involved</i>	<i>Situation of unlawful occupation of government land which had been designated for a specific use or was not vacant</i>	<i>Year in which the complaint or report was received concerning the unlawful occupation of government land which had been designated for a specific use or was not vacant</i>	<i>Year in which the Government used the regularization approach in handling the case</i>

- (b) *whether there are established criteria to be followed when it decides if the regularization approach is to be used or not in handling cases of unlawful occupation of government land which has been designated for a specific use or is not vacant; if so, of the details; if not, the reasons for that, and whether it will formulate the criteria concerned;*
- (c) *whether an established procedure has to be followed when using the regularization approach in handling cases of unlawful occupation of government land which has been designated for a specific use or is*

*not vacant; if so, of the details of such a procedure; if not, the reasons for that, and whether it will formulate the procedure concerned; and*

- (d) *whether public consultation has to be conducted before using the regularization approach in handling cases of unlawful occupation of government land which has been designated for a specific use or is not vacant; whether there is any mechanism at present for members of the public to lodge complaints when they are dissatisfied with the Government's handling of cases by the regularization approach; if so, of the details; if not, the reasons for that, and whether it will formulate the mechanism concerned?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, in September 2005, the District Lands Officer/Yuen Long (DLO/YL) received an anonymous letter complaining about the unauthorized conversion of a footpath, largely falling within the land covered by a Government Land Licence (GLL) in San Tin, Yuen Long, into an access also for vehicular use. However, DLO/YL later learnt that the access had been used by vehicles before 2005, or even earlier. According to the outcome of the district consultation exercise conducted by the District Officer/Yuen Long (DO/YL), the majority of the local residents were in favour of retaining the access for use by both pedestrians and vehicles. DO/YL also would consider improving the road surface of the access following the normal standards of village access and conduct a district consultation exercise on this basis. Details of the case were set out in an Information Paper No. CB(1)1911/08-09(02), which was submitted to the Legislative Council Panel on Environmental Affairs Subcommittee on Combating Fly-tipping (the Subcommittee) by the LandsD on 12 June 2009. The Administration attended the Subcommittee meeting on 15 June 2009 for discussion on this case.

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

- (a) In the past, GLLs were issued to regularize squatters in the rural areas of the New Territories or other specific purposes. However, GLLs are rarely issued nowadays. According to the existing government policy, vacant Government land which is not required for development in the near future may, where appropriate, be made available for temporary use through a Short Term Tenancy (STT). To effect better land control, old GLLs will be converted to STTs

gradually if deemed appropriate. If unauthorized occupation of Government land is detected, the LandsD may regularize this through the issue of modified or new STTs (or modified GLLs) to the occupants. Information on cases completed by the District Lands Offices of the LandsD concerning the regularization of enlargement of tenancy areas by STTs since early 2007 is as follows:

<i>Location</i>	<i>Area of Government land occupied without authorization (sq m)</i>	<i>Uses of Government land occupied without authorization</i>	<i>Year in which unlawful occupation of government land detected by District Lands Offices</i>	<i>Year in which "regularization" was completed</i>
A Kung Ngam Village Road, Shau Kei Wan	5	Shrine	2007	2008
Off Kai Lung Wan, Aberdeen	80	Overhead/underground cable trenches	2007	2008
Victoria Road	28	Garden	2007	2008
Tai Tam Village, Stanley	25	School playground	2007	2008
Cha Kwo Ling	51	Waste paper workshop	2007	2008
Cheung Chau	2	Garden	2007	2008
Kwan Tei North, Fanling	26	Garden and canopy	2007	2007
Ma Wat Wai, Fanling	79	Garden and canopy	2007	2007
Fan Leng Lau	1	Garden and car canopy	2007	2007
Man Kam To	7	Ancillary use for a container depot	2007	2007
Kwan Tei North, Fanling	5	Storage of metal goods	2007	2007
Sai Kung (Total: 18 cases)	15 to 570	Including gardens, open parking spaces, store rooms, fish ponds and canopies	2007	2007-2009

<i>Location</i>	<i>Area of Government land occupied without authorization (sq m)</i>	<i>Uses of Government land occupied without authorization</i>	<i>Year in which unlawful occupation of government land detected by District Lands Offices</i>	<i>Year in which "regularization" was completed</i>
Ten Thousand Buddhas Monastery, Sha Tin	20	Incinerator use by temple and storage	2007	2008
Sha Lan Villa, Shuen Wan, Tai Po	11	Garden	2007	2009
Ha Hang, Tai Po	7	Garden	2007	2008
Beaulieu Peninsula, Tuen Mun	126	Garden	2007	2008
San Hing Tsuen, Tuen Mun	90	Workshop and storage	2007	2009
Tsang Tsui, Tuen Mun (Total: 2 cases)	16	Dust detectors	2007	2009
Yuen Long (Total: 14 cases)	2 to 524	Shops, open storage yards, laundries and vehicle repair workshops, and so on	2007	2007-2009

- (b) In general, if Government land being occupied without authorization is not required for other development in the near future, and an application for regularizing its unauthorized occupation through the modification of an STT (or modification of a GLL) or issue of a new STT is not violating other existing government policies, the District Lands Offices may consider approving the application to regularize the unauthorized occupation. This is a pragmatic way of resolving the problem of unauthorized occupation of Government land and obviates the need for deploying considerable manpower in conducting inspections to prevent the re-occupation of such land.
- (c) In handling cases of unauthorized occupation of Government land, the District Lands Offices normally consult the departments

concerned (Planning Department, Buildings Department, Transport Department, Highways Department and Drainage Services Department, and so on) and the relevant District Officers for comments. When no objection is received, the District Lands Officers may consider approving such applications. For STTs issued through the regularization approach, market rent is generally charged.

- (d) When invited by the District Land Officers to conduct consultation on cases of regularization of unauthorized occupation of Government land, the District Officers will seek the views of the local community having regard to the specific circumstances of individual cases. The District Officers will, as requested by the District Lands Officers, also co-ordinate the different views involved.

### **Book Donation and Sale Campaign**

16. **MR ABRAHAM SHEK** (in Chinese): *President, the authorities organized the Book Donation and Sale Campaign annually from 2002 to 2006, so as to promote reading and book recycling, as well as raise funds for The Community Chest of Hong Kong. On the other hand, public libraries under the Leisure and Cultural Services Department (LCSD) have recently refused to accept used books donated by members of the public. In this connection, will the Government inform this Council:*

- (a) *why the authorities have ceased organizing the aforesaid campaign since 2007;*
- (b) *how much resources were deployed in the past three years by the authorities to promote reading and book recycling, and whether they have assessed the effectiveness of such work; and*
- (c) *whether the authorities will consider organizing the Book Donation and Sale Campaign again; if they will, of the details; if not, the reasons for that?*

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

- (a) The Hong Kong Public Libraries (HKPL) under the LCSD welcomes donations of materials from the public and organizations to enhance its library collection. The major materials to be collected are items related to the study of Hong Kong and those that can enrich the various HKPL specialized and reference collections, especially rare books or series unavailable in the market. The objective is to tie in with the overall collection development of the HKPL and to meet the public needs for both general self-learning and intensive research.

To accept donated books, the HKPL needs to put in enormous time and effort to process the registration, sorting, transportation, cataloguing, and so on. Considering the cost-effectiveness, the HKPL normally would not accept donations of general books already acquired.

A series of activities are organized every year by the HKPL to promote reading. The promotional activities for each year are subject to review and adjustment. The Book Donation and Sale Campaign was one of the reading activities held by the LCSD in the past. To make provision for the District Councils' (DCs) involvement in the management of public libraries in the districts, the HKPL adjusted its annual plan of reading activities in 2007 to take into account the characteristics of individual districts. More activities are geared towards catering for the needs of the local communities and community collaboration initiatives are dedicated to reinforce the culture of reading for all. As resources have to be redeployed into the above district activities, some events (including the Book Donation and Sale Campaign) ceased to be organized.

- (b) The number of activities to promote reading held by the HKPL, the attendance, and the expenditures incurred over the past three years are as follows:

	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>
No. of reading activities	10 650	10 740	11 980
Attendance	16 398 600	16 274 170	17 048 020
Expenditure (\$m)	2.08	2.10	2.16



The reading activities organized by the HKPL are well received by readers. Territory-wide activities organized are Reading Programmes for Children and Youth, Reading Clubs, Paired Reading Talks and Story Telling Workshops, "Meet-the-Authors" Sessions, "Summer Reading Month", "4.23 World Book Day Creative Competition", and so on. Activities held jointly with other organizations include "Reading Carnival", "Selection of Good Books for Secondary School Students", and "Hong Kong Book Prize", and so on. Thematic panels as well as roving exhibitions of books with tie-in recommended booklists will also be displayed at various libraries. Since January 2008, the HKPL has been collaborating with the DCs and local bodies to organize more reading activities catering for the needs of the districts so as to reinforce the culture of reading for all.

To promote reading and to optimize the use of the library collection, the HKPL has actively collaborated with school libraries and community libraries. The public library collection is made available for these organizations by means of block loans, thus facilitating more people to enjoy reading. In the past year, about 3.2 million books were loaned out by the HKPL to 771 partner organizations.

- (c) Through organizing a rich array of reading activities, the HKPL aims to encourage the public to make good use of the library resources to cultivate a good reading habit. At present, the focus of the reading activities is to enhance the implementation of diversified activities at the district level. For example, the HKPL continues to work in collaboration with the DCs and local bodies in organizing such reading activities as the "Summer Reading Month" in Wong Tai Sin, "Summer Reading Programme" in Shum Shui Po, "Reading Promotion Week: Vote for Good Books for Children and Youths and Creative Book Report Writing" in Tuen Mun, "Enjoy Reading in Sha Tin" Carnival, and so on. These reading activities are all designed to meet the needs of different communities and to reinforce the culture of reading for all. Having considered the development strategies and the deployment of resources, the HKPL has no plan at present to organize the Book Donation and Sale Campaign for the time being.

**MTR Half-fare Concessions for Eligible Persons with Disabilities**

17. **MR CHEUNG HOK-MING** (in Chinese): *President, last month, the MTR Corporation Limited (MTRCL) announced that it would implement the Half Fare Promotion Scheme for persons with disabilities (the Scheme). Under the Scheme, recipients of the Comprehensive Social Security Assistance aged between 12 and 64 with 100% disability and recipients of Disability Allowance in the same age group will enjoy half-fare concessions. The MTRCL wishes that the Government will take complementary measures, including amendments to the Disability Discrimination Ordinance (DDO) (Cap. 487), to ensure that the Scheme does not contravene the law. In this connection, will the Government inform this Council:*

- (a) of the latest progress of the relevant work;*
- (b) of the specific implementation timetable of the aforesaid scheme; and*
- (c) whether it will consider discussing with the MTRCL extending the coverage of the Scheme to all holders of Registration Card for People with Disabilities issued by the Labour and Welfare Bureau (LWB); if it will, of the details; if not, the reasons for that?*

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

- (a) and (b)*

The Government has all along encouraged public transport operators to offer concessionary fares to the public, including persons with disabilities. The MTRCL announced on 21 May 2009 that MTRCL will offer up to half fare concessions to recipients under the Comprehensive Social Security Assistance scheme aged between 12 and 64 with 100% disability and recipients of Disability Allowance in the same age group by way of a promotion scheme. Through the scheme, the MTRCL aims to encourage these persons with disabilities to participate more in activities away from home, thereby enhancing their contact with and integration into society.

To facilitate the early implementation of the scheme, the LWB has, in response to the request of the MTRCL and having regard to the scheme, commenced the preparatory work for amending the DDO in close collaboration with the Transport and Housing Bureau, Department of Justice and Equal Opportunities Commission. The legislative amendments will help alleviate concern over possible contravention of the DDO by the scheme. The legislative amendments will tie in with the implementation timetable of the scheme. The LWB expects to submit the proposed legislative amendments to the Legislation Council for approval at the earliest opportunity in the 2009-2010 Legislative Session.

In parallel, the MTRCL has also started preparatory work to put in place administrative procedures and technical changes, such as updating the Automatic Fare Collection software, designing and printing application forms, establishing application procedures, arranging for new Octopus cards and staff to process the applications. It is expected that the related work will be completed by the end of this year. The MTRCL is also in discussion with the Social Welfare Department on the verification of eligibility of applicants. Details of the scheme and application procedures will be announced after legislative amendments to the DDO are completed. If the legislative amendments and preparatory work are completed as scheduled, the scheme will be open for application at the end of this year.

- (c) The MTRCL has been providing ongoing fare concessions for the elderly, children and students together with different promotions offered from time to time. The MTRCL has also been carefully listening to society's views on the provision of concessionary fare to persons with disabilities. Hence the MTRCL, apart from the aforementioned concessions, has decided to offer fare concessions to recipients under the Comprehensive Social Security Assistance scheme aged between 12 and 64 with 100% disability and recipients of Disability Allowance. MTRCL's proposal has already provided fare concessions to the persons with disabilities most in need of assistance and there are objective identification criteria for these two groups of persons with disabilities.

### Measures to Combat Deception Activities

18. **MR ALBERT CHAN** (in Chinese): *President, members of the public have recently relayed to me that a young man travelled to Macao on invitation by some friends he made on the Internet. Instigated by those friends during the visit, he applied for a casino VIP membership card, with which he borrowed money for them to gamble. Although the young man did not take part in gambling, he was subsequently forced to repay gambling debts of 100-odd thousand dollars for them. Debt collectors escorted him back to Hong Kong and harassed him and his family by illegal practices, such as splashing red paint near their residence, and they as a result suffered great mental distress. In this connection, will the Government inform this Council:*

- (a) *of the number of cases, received by the authorities in each month of the past two years, of assistance being sought by persons who had fallen victim to the aforesaid deceptions, as well as the number of relevant people among these cases who were convicted; and*
- (b) *whether it has formulated any measure to prevent young people from falling victim to the aforesaid deceptions; if so, of the details; if not, the reasons for that?*

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

- (a) Based on the reports received by the police from the public, a new modus operandi in loansharking activities has emerged since the third quarter of 2008. Criminals make use of the Internet as a platform to lure victims to Macao where they are tricked into serious debts. From July 2008 to March 2009, the number of such reports, prosecutions and convictions are set out below:

	2008						2009		
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Number of reported cases	3	2	3	2	2	4	4	3	7
Number of cases involving criminal offences	0	1	1	0	0	1	0	0	3
Number of detected cases	0	1	1	0	0	0	0	0	2
Number of arrested persons	0	3	2	0	0	0	0	0	4

	2008						2009		
	<i>Jul</i>	<i>Aug</i>	<i>Sep</i>	<i>Oct</i>	<i>Nov</i>	<i>Dec</i>	<i>Jan</i>	<i>Feb</i>	<i>Mar</i>
Number of prosecuted cases*	0	1	1	0	0	0	0	0	3
Number of convicted persons	0	0	0	0	0	0	0	0	0

Note:

\* Most of the cases are under judicial proceedings. The cases or prosecutions may involve other criminal offences.

- (b) The police are committed to combating illegal money lending activities and debt collection practices. The police will continue to rigorously enforce the law and conduct thorough investigation into cases. They will institute prosecution in accordance with the law where there is sufficient evidence to prove any illegal practices.

With the emergence of the new modus operandi in loansharking activities, the police have stepped up publicity to raise public awareness of such practice. For instance, the police have made an appeal through the programme "Police Magazine", alerting youngsters not to fall prey to fraudulent activities out of a moment's greed and encouraging young victims as well as their families and friends to report to the police so that the police could take follow-up actions. Since April this year, the New Territories South Region launched the "Operation Outviewer", targeting at deception cases that use the new modus operandi in loansharking activities and other illegal money lending and debt collection activities. As a result, 23 persons were arrested by end May this year. To further raise public alertness, the police held a press conference and issued a press release on the abovementioned operation to advise the public not to borrow money from loanshark syndicates, or apply for loans from, or disclose personal information to, financial companies without any money lender's licence numbers through the Internet. The public is further advised not to accede to any request proposing to transfer their loan applications to any financial companies in Macao when they make loan applications.

To more effectively combat cross-boundary money lending and debt collection cases involving loansharking activities in Macao, the Organised Crime and Triad Bureau (OCTB) of the Hong Kong

Police Force and the Gambling-related Crimes Division of the Macao Judiciary Police established a referral mechanism in February 2009, whereby cases involving loansharking activities in Macao are referred to the Macao Judiciary Police for follow-up and investigation. Where there is an appropriate case for referral, the OCTB will activate the mechanism and arrange the victim to report the case, in the company of the investigating officers of the Hong Kong Police Force, to the Macao Judiciary Police so that its Gambling-related Crimes Division can take follow up action. The Macao Judiciary Police will give priority to the following types of cases — the culprits deploying fraudulent means; the victim being a young person or a student; use of violence or threat in Macao by the culprits; or involving circumstances of a particularly serious nature.

As at mid-May this year, the Hong Kong Police Force has referred a total of seven cases involving loansharking activities in Macao to the Macao Judiciary Police for follow-up and investigation. Of these cases, the Gambling-related Crimes Action Group of the Macao Judiciary Police has detected two cases of conspiracy to blackmail and defraud with the arrest of two persons. The Gambling-related Crimes Action Group of the Macao Judiciary Police has also provided information to OCTB of the Hong Kong Police Force on a suspect involved in another case, thereby leading to his arrest and successful prosecution in Hong Kong.

The police will continue to closely monitor cross-boundary loansharking activities, deploy resources flexibly in the light of circumstances, and take enforcement actions promptly. The police will also enhance co-operation with the neighbouring law-enforcement agencies (including the Macao Judiciary Police) to combat loansharking and illegal debt collection activities.

### **Shortage of and Manpower Planning for Nurses**

19. **DR JOSEPH LEE** (in Chinese): *President, regarding the shortage of and long-term manpower planning for nurses, will the Government inform this Council:*

- (a) *whether it knows the number of nurses of public hospitals under the Hospital Authority (HA) who departed in the past 24 months, together with a breakdown by the hospital and clinical department to which the nurses who departed belonged, as well as by their rank and length of service;*
- (b) *whether it knows whether the HA has conducted any recruitment exercise for the vacancies mentioned in (a); if it has, of the number of vacancies which have been filled at present, broken down respectively by their rank and clinical department; if not all such vacancies have been filled, of the reasons for that; and*
- (c) *whether the authorities have made any plan for the supply and demand for nurses from 2010 to 2015; if they have, of the specific supply and demand figures; if not, the reasons for that?*

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

- (a) As at 31 March 2009, the number of full-time equivalent nurses in the HA was 19 522. In the past two years (that is, 2007-2008 to 2008-2009), 1 721 nurses in the HA Head Office and various hospital clusters left service. In 2007-2008, the number of departed nurses was 844, including 75 retiring nurses, and the overall turnover rate of nurses for the whole year was 4.5%. In 2008-2009, the number of departed nurses was 877, including 97 retiring nurses, and the overall turnover rate of nurses for the whole year was 4.7%. The turnover figures of nurses in the HA Head Office and various hospital clusters by rank in 2007-2008 and 2008-2009 are at Table 1. The turnover figures of nurses in various clinical departments of HA by rank in the same period are at Table 2. The length of service of all ranks of departed nurses is at Table 3.

The turnover rates of HA nurses in 2007-2008 and 2008-2009 are slightly higher than the average nurse turnover rate of about 3% in the past 10 years. The HA has introduced various new measures in recent years to enhance its efforts in the retention and recruitment of nurses, including raising the entry pay point for nurses in 2007,

enhancing the career structure of nurses and reopening some of the nursing schools under the HA in 2008.

- (b) The filling of nurse vacancies generally depends on the personal preference of eligible applicants, market supply and demand as well as the overall economic environment. The HA fills its nurse vacancies and strengthens its nursing manpower support through external recruitment and internal promotion. The number of nurse vacancies filled by the HA through external recruitment and internal promotion in 2007-2008 and 2008-2009, with breakdown by rank, is at Table 4. These vacancies include newly created positions to cope with service and operational needs as well as vacancies arising from staff turnover. The HA has recruited 671 and 874 nurses in 2007-2008 and 2008-2009, and promoted 461 and 1 112 serving nurses in the two respective years. In addition, as at 31 March 2009, a total of 1 662 temporary nursing staff (including nursing students) assisted in delivering nursing service in the HA.
- (c) The Administration constantly assesses the supply and demand of nursing manpower in Hong Kong to facilitate manpower planning. In view of the ageing population and rising public expectations on the quality of health care services, we expect that the local demand for nurses will remain strong. The actual demand will depend on various factors such as the demand for new services, departure of nurses from the nursing profession or turnover of nurses who have chosen to leave Hong Kong. As for the supply of nurses, we anticipate that there will be 993, 1 420 and 1 760 nurse graduates in Hong Kong in 2009, 2010 and 2011 respectively.

Based on the demand for nursing manpower, the Administration makes suggestion to the University Grants Committee (UGC) from time to time on the number of places for nursing programmes, which serves as a reference for the institutions in formulating their academic plans. Taking account of the Government's suggestion, the UGC will provide 40 additional places for first-year nursing undergraduate programmes and 50 additional places for nursing associate degree programmes starting from the 2009-2010 academic year, and 60 additional senior year intake places for nursing



undergraduate programmes starting from the 2010-2011 academic year. In addition, we have allocated additional recurrent funding to the HA in 2009-2010 to provide 200 and 350 additional training places for registered nurse and enrolled nurse respectively.

Table 1

Turnover of nurses in HA Head Office and various hospital clusters  
by rank in 2007-2008 and 2008-2009

<i>Cluster</i>	<i>Nursing Officer/ Advanced Practice Nurse/ Nurse Specialist/ Ward Manager or above</i>	<i>Registered Nurse</i>	<i>Enrolled Nurse/ Midwife/ Others</i>	<i>Total</i>
2007-2008				
Head Office	1	1	0	2
Hong Kong East	11	86	12	109
Hong Kong West	15	88	7	110
Kowloon Central	14	91	6	111
Kowloon East	10	71	11	92
Kowloon West	28	142	24	194
New Territories East	13	95	15	123
New Territories West	7	77	19	103
Total	99	651	94	844
2008-2009				
Head Office	1	0	0	1
Hong Kong East	10	78	17	105
Hong Kong West	19	81	18	118
Kowloon Central	14	93	12	119
Kowloon East	5	71	6	82
Kowloon West	24	141	29	194
New Territories East	18	118	16	152
New Territories West	13	79	14	106
Total	104	661	112	877

Table 2

Turnover of nurses in various clinical departments in the HA  
by rank in 2007-2008 and 2008-2009

<i>Department</i>	<i>Nursing Officer/ Advanced Practice Nurse/ Nurse Specialist/ Ward Manager or above</i>	<i>Registered Nurse</i>	<i>Enrolled Nurse/ Midwife/ Others</i>	<i>Total</i>
2007-2008				
Medicine	26	148	28	202
Surgery	9	59	1	69
Obstetrics & Gynaecology	11	46	1	58
Paediatrics	8	52	6	66
Orthopaedics	2	16	1	19
Psychiatry	4	12	6	22
Others	39	318	51	408
Total	99	651	94	844
2008-2009				
Medicine	19	150	42	211
Surgery	7	43	5	55
Obstetrics & Gynaecology	8	35	5	48
Paediatrics	9	65	0	74
Orthopaedics	4	29	1	34
Psychiatry	4	12	7	23
Others	53	327	52	432
Total	104	661	112	877

Table 3

Length of service of all ranks of nurses who departed from the HA  
in 2007-2008 and 2008-2009

<i>Length of service</i>	<i>Nursing Officer/ Advanced Practice Nurse/ Nurse Specialist/ Ward Manager or above</i>	<i>Registered Nurse</i>	<i>Enrolled nurse/ Midwife/ Others</i>	<i>Total</i>
2007-2008				
<3 years	0	152	0	152
3 years — <5 years	0	50	5	55

<i>Length of service</i>	<i>Nursing Officer/ Advanced Practice Nurse/ Nurse Specialist/ Ward Manager or above</i>	<i>Registered Nurse</i>	<i>Enrolled nurse/ Midwife/ Others</i>	<i>Total</i>
5 years — <10 years	0	58	7	65
10 years — <15 years	36	236	43	315
15 years — <20 years	44	153	26	223
≥20 years	19	2	13	34
<b>Total</b>	<b>99</b>	<b>651</b>	<b>94</b>	<b>844</b>
<b>2008-2009</b>				
<3 years	0	181	8	189
3 years — <5 years	0	52	7	59
5 years — <10 years	0	40	5	45
10 years — <15 years	34	232	44	310
15 years — <20 years	47	144	37	228
≥20 years	23	12	11	46
<b>Total</b>	<b>104</b>	<b>661</b>	<b>112</b>	<b>877</b>

Table 4

Number of nurse vacancies filled by the HA through external recruitment  
and internal promotion in 2007-2008 and 2008-2009

	<i>2007-2008</i>		<i>2008-2009</i>	
	<i>External recruitment</i>	<i>Internal promotion</i>	<i>External recruitment</i>	<i>Internal promotion</i>
Senior Nursing Officer or above	0	20	1	34
Nursing Officer/ Advanced Practice Nurse/ Nurse Specialist/ Ward Manager	0	253	8	931
Registered Nurse	662	188	804	147
Enrolled Nurse/Midwife/ Others	9	Not applicable	61	Not applicable
<b>Total</b>	<b>671</b>	<b>461</b>	<b>874</b>	<b>1112</b>

**Financial Assistance for Local Exhibitors**

20. **DR LAM TAI-FAI** (in Chinese): *President, I have received complaints from people of the jewelry industry that the exhibition fees charged by some exhibition organizers for exhibitions held at the Hong Kong Convention and Exhibition Centre (HKCEC) are more than 40% higher than those charged for exhibitions of the same type organized by the Hong Kong Trade Development Council (HKTDC). Under the critical economic situation caused by the plunge in local export trade as a result of the financial tsunami, the increase in exhibition fees, instead of decrease, not only substantially increases the operating costs of the industry, which leads to difficulties in the operations of small and medium enterprises (SMEs) and hinders the development of the industry, but also weakens the competitiveness of the exhibition industry in Hong Kong. In this connection, will the Government inform this Council:*

- (a) of the details of the various forms of subsidies for exhibition fees currently provided to local exhibitors;*
- (b) whether in the past five years, it had conducted studies or compiled statistics to compare the differences between the exhibition fees charged by the HKTDC and those by private exhibition organizers for exhibitions of the same type held at the HKCEC; and the reasons for the relevant differences;*
- (c) given the completion of the extension project of the atrium link between Phases I and II of the HKCEC, whether it knows if the HKTDC and the Hong Kong Convention and Exhibition Centre (Management) Limited (HKCEC (Management) Limited) has revised, in the light of the extension project, the operation and management contract signed in 1997; if it has, of the details; if not, the reasons for that;*
- (d) given that according to the provisions of the aforesaid contract, the HKCEC (Management) Limited shall pay the HKTDC a fee calculated at a prescribed percentage of the gross revenue from the overall operations of HKCEC each year; and the HKCEC (Management) Limited shall, with effect from 1 July 2003, pay the HKTDC each year a fee calculated at 8.634% of the gross revenue, whether it knows if that percentage has now changed; if it has, of the details; if not, the reasons for that;*

- (e) *whether it knows the amount of the annual fee, as mentioned in (d), paid by the HKCEC (Management) Limited to the HKTDC in the past five years, and the use of such funds;*
- (f) *whether it will consider requesting the HKTDC to use the funds in (e) to subsidize SMEs in Hong Kong to pay for exhibition fees, so as to give material support to the development of exhibition businesses; if it will not, of the reasons for that;*
- (g) *whether it knows if the HKTDC has regularly assessed the performance of the HKCEC (Management) Limited; if it has, of the outcome, the criteria and mechanism of the assessments; if not, the reasons for that; whether the assessments are conducted by an assessment committee with the participation of independent members or trade representatives; if so, of the membership list of the committee; if not, the reasons for that;*
- (h) *given that the HKTDC is currently charging local and overseas companies the same exhibition fees, how the Government effectively assists SMEs in Hong Kong in reducing exhibition costs; whether it will further consider giving other relevant concessions to local SMEs; if it will, of the details; if not, the reasons for that;*
- (i) *whether it knows if the HKTDC has requested the HKCEC (Management) Limited to add clauses to the venue hiring contracts entered into with exhibition organizers provisions on any form of concessions to SMEs in Hong Kong; whether it will set up a complaint mechanism in respect of the fees and service levels of exhibitions, and take this into account in considering whether or not the exhibition organizers may hire the venues in the future; if it will, of the details; if not, the reasons for that; and*
- (j) *whether it knows the detailed considerations of the HKCEC (Management) Limited in implementing its venue hiring policies; of the reasons for giving priority in venue hiring to exhibition organizers which regularly apply for organizing exhibitions in the same time slots; whether the HKCEC (Management) Limited has assessed if the policy of giving priority in venue hiring will give rise to monopoly; if the assessment result is that monopoly exists,*

*whether it will introduce a fair competition policy in venue hiring; if the assessment result is in the negative, of the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, my reply is as follows:

- (a) Hong Kong SMEs may apply for grants under the SME Export Marketing Fund (EMF) for their participation in overseas trade fairs/exhibitions and business missions, as well as local trade fairs/exhibitions which are export-oriented. For each successful application, the maximum amount of grant is 50% of the total approved expenditure (including exhibition fees charged by exhibition organizers, costs for construction of booths, air tickets and hotel charges for exhibitions held outside Hong Kong, fees for advertising in trade publications targeting the export markets and fees for advertising on eligible websites for trade). The grant is subject to a ceiling of \$50,000 and the maximum cumulative amount of grant an SME may obtain is \$150,000.

Since its launch in 2001, the EMF has approved over 75 000 applications, involving grants of over \$1.2 billion. On 5 June 2009, the Finance Committee approved an injection of \$1 billion into the EMF for its continued operation.

- (b) The Government has not conducted any studies or compiled any statistics on the exhibition fees charged by the HKTDC or other exhibition organizers. However, as far as the HKTDC understands, the exhibition fees for the HKTDC exhibitions are generally lower than those charged by private exhibition organizers.

- (c) and (d)

The HKTDC has entered into a supplemental agreement with the Hong Kong Convention and Exhibition Centre (Management) Limited (HML) to extend the HML's operation and management rights to cover the Atrium Link Extension. The contract is a commercial agreement between the HKTDC and the HML. According to the HKTDC, the HML pays the HKTDC an annual fee

calculated at a prescribed percentage of the gross income from the HKCEC operations. Nevertheless, there is a confidentiality provision in the supplemental agreement which disallows the disclosure of the details of the agreement, including the relevant percentages.

(e) and (f)

The annual fee incomes paid by the HML to the HKTDC in each of the past five years up to end June 2008 are as follows:

<i>Financial Year</i>	<i>Fee income</i>
2007-2008	\$77.2 million
2006-2007	\$75.5 million
2005-2006	\$73.5 million
2004-2005	\$67.5 million
2003-2004	\$62.7 million

Note: The financial year of HML begins on 1 July of a year and ends on 30 June of the following year.

The fee income collected by the HKTDC constitutes part of its operating funds for the promotion of Hong Kong's external trade through organizing or participating in trade fairs and other promotion activities in Hong Kong or abroad. These activities help SMEs expand their businesses in different markets in the world and promoting the Hong Kong branded products, and so on.

(g) As a major user of the HKCEC venue, the HKTDC reviews and makes suggestions on the service level of HML from time to time. The Executive Director of the HKTDC also monitors the performance of HML through his directorship in the board of the HML.

The HKTDC has commissioned an independent consultant to assess the service level and quality of the facilities of the HML. In the study, the consultant benchmarked the service level of the HML against the quality of the venue management services of its overseas counterparts, and considered the services provided by the HML

satisfactory. Since the HKTDC assesses the HML's performances on the basis of the management agreement signed between them, the assessments have been steered and conducted by the HKTDC management. The HKTDC will also invite the HML to report to the HKTDC Council on matters relating to its service level when necessary.

- (h) For most of the exhibitions organized by the HKTDC, the exhibition fees charged for local companies are generally lower than those for overseas companies by 10% or more. For some exhibitions, the HKTDC also offers additional discounts to members of the relevant trade associations. Furthermore, to strengthen support for SMEs and help them continue to develop overseas markets during the current economic downturn, the HKTDC launched an SME assistance package early this year. Under this package, the HKTDC provides each Hong Kong company participating in its trade fairs in 2009 with a \$2,000 cash coupon redeemable for its services relating to exhibition facilities or online promotion services.

As indicated in (a) above, local SMEs may also apply for grants under the SME EMF for their participation in local or overseas trade exhibitions.

- (i) The HML operates the HKCEC on commercial principles and rent out venues to exhibition organizers with a set of open and transparent criteria. The HML will not seek to regulate the amount of exhibition fees charged by exhibition organizers renting their venue as this is a commercial decision. The HML does not operate any complaint mechanism in respect of the fees and service levels of the exhibition organizers renting its venue. Since the decisions of organizing and taking part in exhibitions are both commercial decisions, the HML will not seek to interfere with the operations of exhibition organizers unless there are misconducts leading to crowd management problems during an exhibition or fraudulent activities in an exhibition or when the contents of an exhibition deviate from the stated theme, and so on. Nor will exhibitors' opinions on the fee and service levels of an exhibition organizer be the sole factors affecting the HML's future decisions on whether to rent out its venue to a particular exhibition organizer.



- (j) The HML gives priority to and reserves its venue for exhibition organizers which book the HKCEC exhibition venue during the same time slot every year. This venue booking policy is in line with the international practices of the convention and exhibition industry. The HML considers that this policy will not give rise to monopolies. Since substantial expenses, for example, promotion costs, and so on, will be incurred in launching a new exhibition, it usually takes a few years for a trade fair held annually to break even or record a profit. As such, from exhibition organizers' perspective, there is a practical need for a venue booking policy giving priority to existing clients. Without a policy to assure them that their exhibitions could be held again during the same time slot in the coming years, exhibition organizers will have less incentive to organize exhibitions.

## **BILLS**

### **First Reading of Bills**

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

### **LEGAL PRACTITIONERS (AMENDMENT) BILL 2009**

### **IMMIGRATION (AMENDMENT) BILL 2009**

### **INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2009**

### **BUNKER OIL POLLUTION (LIABILITY AND COMPENSATION) BILL**

**CLERK** (in Cantonese): Legal Practitioners (Amendments) Bill 2009

Immigration (Amendment) Bill 2009

Inland Revenue (Amendment) (No. 2) Bill 2009

Bunker Oil Pollution (Liability and Compensation) Bill

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

**Second Reading of Bills**

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

**LEGAL PRACTITIONERS (AMENDMENT) BILL 2009**

**SECRETARY FOR JUSTICE** (in Cantonese): President, I move that the Legal Practitioners (Amendment) Bill 2009 (the Bill) be read a Second time.

This Bill proposes to amend the Legal Practitioners Ordinance to implement the scheme for granting higher rights of audience to solicitors proposed in the report published by the Working Party on Solicitors' Rights of Audience (the Working Party).

This Bill has its origins in a report published by the Working Party established by the Chief Justice to consider whether solicitors' existing rights of audience should be extended and if so, the mechanism for dealing with the grant of extended rights of audience to solicitors.

In October 2007, the Working Party published a report (the Report) recommending a proposal for granting higher rights of audience to solicitors. Under the proposed scheme, solicitors having at least five years' post-qualification experience and satisfying further eligibility requirements may apply to a board called the Higher Rights Assessment Board (the Assessment Board) for higher rights of audience before the High Court and the Court of Final Appeal.

Details of the administration of the scheme will be governed by subsidiary legislation to be made by the Assessment Board after the enactment of the Bill.

I will first deal with the establishment of the Assessment Board. The Assessment Board will comprise members appointed by the Chief Justice from serving or former judges, members of the legal profession, officers of the Department of Justice, as well as a lay member also appointed by him.

The Bill also provides for the terms of office, resignation and removal of a member of the Assessment Board, and also for the proceedings of the Assessment Board.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

I will now turn to the eligibility requirements for applying to the Assessment Board for higher rights of audience. An applicant should satisfy the eligibility requirements set out in the Bill in order to apply to the Assessment Board for higher rights of audience, whether in respect of civil proceedings, criminal proceedings or both civil and criminal proceedings. Among other requirements, the applicant has to have at least five years' post-qualification experience. Further, the applicant has to comply with rules, which may include requirements respecting completion of an approved advocacy course and passing of related assessments, to be made by the Assessment Board.

An applicant who complies with the alternative requirements prescribed by rules to be made by the Assessment Board may seek exemption from the requirements. In addition, the Assessment Board has to be satisfied that the applicant has acquired recent litigation experience and is in all respects a suitable person to have the higher rights of audience for which the application is made.

The Bill provides for the cessation of a person's higher rights of audience. A person who has higher rights of audience ceases to have those rights on being adjudged bankrupt, or ceasing to be on the roll of solicitors, or being suspended from practice as a solicitor. The Bill also provides for reacquisition of the rights in specified circumstances, such as his/her discharge from bankruptcy, restoration on the roll of solicitors or suspension from practice being set aside.

I now deal with the disciplinary matters relating to solicitor advocates, that is, persons who have acquired higher rights of audience. The Bill proposes that the Law Society Council will issue a code of conduct for solicitor advocates, in consultation with the Chief Justice and the Council of the Hong Kong Bar Association. The Law Society would implement the code as well as deal with disciplinary matters arising from its breach.

The Bill also proposes that where a person who does not have higher rights of audience in respect of certain proceedings under the Bill purports to exercise those rights as a solicitor, the person is guilty of contempt of court and commits an offence punishable by a fine of \$500,000.

I now turn to the empowering provisions of the Bill. As the Assessment Board is required to deal with various matters relating to applications for higher rights of audience, such as the supporting documents and application fee, as well as the determination of those applications, the Bill therefore empowers the Assessment Board to make rules to deal with these matters. It further provides that the Assessment Board may make rules dealing with matters relating to any courses, training, assessments or examinations required to be completed or passed by an applicant for higher rights of audience.

Deputy President, it is in the public interest to enlarge the pool of advocates capable of reaching a high standard of advocacy before the higher courts so that the public can benefit from a wider choice of capable advocates. The Bill seeks to implement the proposal for granting higher rights of audience to solicitors in order to achieve this objective.

I recommend the Bill to this Council.

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

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

## **IMMIGRATION (AMENDMENT) BILL 2009**

**SECRETARY FOR SECURITY** (in Cantonese): Deputy President, I move the Second Reading of the Immigration (Amendment) Bill 2009 (The Bill).

The Bill is to implement immigration convenience measures for Macao residents visiting Hong Kong, and to combat unlawful employment by specifying the taking of employment by illegal immigrants as an offence.

The Hong Kong and Macao SAR Governments have agreed on a number of immigration convenience measures. One of the measures is for Macao permanent residents to enter Hong Kong solely on the strength of their Macao permanent identity cards, without the need to produce a declaration form for entry into Hong Kong. Meanwhile, Hong Kong permanent residents may visit Macao solely on the strength of Hong Kong permanent identity cards, without having to furnish an arrival form. We intend to implement the relevant measures by end of 2009, with a view to promoting exchanges between Hong Kong and Macao.

A Macao permanent identity card does not fall under the existing definition of a "valid travel document" under the Immigration Ordinance. We therefore recommend amending the definition, such that it would cover documents such as Macao permanent identity cards.

Furthermore, since we cannot endorse conditions of stay on the surface of card-type documents such as Macao permanent identity cards, such conditions will be printed on a slip. We propose amending the provision under section 17G of the Immigration Ordinance regarding the definition of a lawfully employable person, modifying the requirement that conditions of stay be "endorsed" on a valid travel document. Likewise, we cannot endorse a visa on a card-type document. We also propose to make technical amendments to the provisions relating to visa endorsement under the Immigration Ordinance.

The above amendments relating to "valid travel documents" will also facilitate the implementation of similar convenience measures for visitors from places other than Macao in the future.

Another objective of the Bill is to strengthen the combating of unlawful employment. There is currently no specific offence in the laws of Hong Kong against the taking of employment, or establishing or joining in business by illegal immigrants. The authorities used to prosecute illegal immigrants working illegally for the offence of "unlawful remaining".

In the ruling of a judicial review case this March, the Court of First Instance of the High Court held that recognizance granted to illegal immigrants represented an authority from the Director of Immigration for them to remain in Hong Kong. Hence, they would have a defence against the charge of unlawful remaining. Following the promulgation of this judgment, there was an upsurge

of foreign illegal immigrants: from the monthly average of 37 in January and February this year, to 136 in March to May, increased by more than 260%. Many of the illegal immigrants come to Hong Kong to take unlawful employment and make money during their stay. Some of them may lodge torture claims in order to prolong the period they remain in Hong Kong. The monthly average number of torture claimants rose from 196 from January to February this year, to 274 from March to May, representing an increase by nearly 40%.

To maintain effective immigration control and protect the local workforce, we see an urgent need to specify a new offence of taking employment, or establishing or joining in business by illegal immigrants. The proposed penalty is a fine at level five (that is, HK\$50,000) and imprisonment for three years.

We also propose that the offence should cover persons subject to removal or deportation, since a removal or deportation order would invalidate the conditions of stay of the person concerned (including one barring him from taking employment).

We consulted the Panel on Security of the Legislative Council on the proposed legislative amendments mentioned above on June 2, 2009. There was general support from Members for the proposals relating to implementing the immigration convenience measures for Macao. On the proposals on combating unlawful employment, some Members opined that as many illegal immigrants taking unlawful employment were torture claimants, the Administration should therefore put forth its overall consideration on the handling of torture claims as soon as practicable. I would like to point out that we will brief the Panel on Security on measures relating to the screening of torture claims on July 6. Nevertheless, we should amend the legislation as early as possible to deal with the pressing problem of taking unlawful employment by illegal immigrants.

We will work closely with Legislative Council Members and endeavour to complete the scrutiny of the Bill within this year. This will enable us to implement the immigration convenience measures as agreed with the Macao authorities by end of 2009, and to create the new offence to prevent the taking of unlawful employment by illegal immigrants as soon as possible, thus preventing the situation from deteriorating.

I urge Members to support the Bill. Thank you, Deputy President.

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

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

## **INLAND REVENUE (AMENDMENT) (NO. 2) BILL 2009**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Deputy President, I move the Second Reading of the Inland Revenue (Amendment) (No. 2) Bill 2009 (the Bill).

The Bill aims to introduce certain technical amendments to the Inland Revenue Ordinance (IRO) as well as some consequential amendments to the Tax Reserve Certificates Ordinance (TRCO) so as to smoothen operation of the Board of Review (the Board) and to improve the administration of the IRO.

Generally speaking, proposed amendments under the Bill are either related to the operation of the Board or technical amendments aimed to improve the administration of the IRO.

There are four proposed amendments relating to the Board.

The first amendment proposes to empower the Board to correct clerical mistakes in its written decisions on tax appeals.

The second amendment suggests that members of the Board's hearing panels are to be nominated by the chairman of the Board, rather than government officials.

The third amendment suggests that a retired member of the Board would be allowed to handle a case that he has handled before in certain circumstances.

The fourth amendment aims to clearly specify that if an appeal is heard by both the chairman and a deputy chairman of the Board, only the presiding officer shall have the casting vote.

There are six proposed amendments relating to the administration of the IRO.

The first amendment suggests that interest payment on capital expenditure incurred in purchasing machinery and plant for research and development, prescribed fixed assets or environmental protection machinery would be allowed to be explicitly deductible under profits tax, as the case for other plant and machinery.

The second amendment aims to plug the existing loophole where claims for home loan interest deduction might be used for tax evasion purposes.

The third amendment proposes to amend the definition of "owner" in the IRO so that the Inland Revenue Department (IRD) could make a property tax assessment on the Owners' Corporation or the person who receives rental income on common parts of a building (for example, the building management company).

The fourth amendment relates to the breach of secrecy provisions by IRD staff. Currently, the IRD can only institute legal proceedings against its staff who are in breach of the secrecy provisions under the IRO within six months of the offence. We propose to extend the limitation period to six years.

The fifth amendment proposes to empower the Commissioner of Inland Revenue to repay the remaining balances in Tax Reserve Certificates (TRCs) accounts with interest to relevant taxpayers unilaterally without asking the taxpayers to surrender their TRCs so as to settle the unnecessary balances in the TRCs accounts expeditiously.

The sixth amendment relates to certain minor textual amendments to the IRO.

We have already briefed the Panel on Financial Affairs on the proposed legislative amendments under the Bill at the meeting on 6 April 2009. The Legislative Council Brief issued on 9 June has also set out detailed explanation on the various technical amendments as specified above.

These technical amendments will not change or affect the current tax regime. I hope the Bill will be passed by the Legislative Council soon after scrutiny.

Thank you, Deputy President.



**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Inland Revenue (Amendment) (No. 2) Bill 2009 be read the Second time.

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

## **BUNKER OIL POLLUTION (LIABILITY AND COMPENSATION) BILL**

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Deputy President, I move the Second Reading of the Bunker Oil Pollution (Liability and Compensation) Bill (the Bill).

The purpose of the Bill is to implement the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the Bunker Oil Convention), as adopted by the International Maritime Organization, in Hong Kong. The Bunker Oil Convention establishes a compensation regime for pollution damages caused by the escape or discharge of hydrocarbon mineral oil (such as bunker oil) from non-tankers. Hong Kong has previously implemented a similar international convention applicable to tankers, that is, the International Convention on Civil Liability for Oil Pollution Damage, 1992 through the enactment of local legislation, that is, the Merchant Shipping (Liability and Compensation for Oil Pollution) Ordinance (Cap. 414).

The main provisions of the Bill are as follows:

First, the Bill sets out the liability on shipowners for spillage-related incidents and provides for limitation of shipowners' liability according to international standards. For the purpose of this liability, ships with a gross tonnage greater than 1 000 are required to take out compulsory insurance or other security;

Second, the Bill provides that local vessels which operate exclusively within the river trade limits are also liable for pollution damages caused by the ships in accordance with relevant international requirements. However, taking into account the very few bunker oil pollution incidents relating to local vessels and the relatively minor extent of damage involved, we propose that the

compulsory insurance scheme should not apply to these local vessels in accordance with Article 7 of the Bunker Oil Convention;

Third, the Bill empowers the Director of Marine or an institution authorized by the Director to issue certificates to shipowners to prove that their ships have valid contracts of insurance or other security satisfying the sum of insurance and other relevant requirements under the Bunker Oil Convention;

Fourth, the Bill confers on a person who suffers pollution damage the right to bring a direct action against the relevant insurer;

Fifth, the Bill provides for the liability of certain persons, including a servant or agent of the shipowner; and

Sixth, the Bill confers on the Marine Department certain powers that are necessary for enforcement of the Bill.

Deputy President, through the implementation of the Bunker Oil Convention, Hong Kong will have an effective compensation regime for pollution damage caused by discharge or escape of bunker oil from non-tankers on par with that adopted by jurisdictions of other contracting parties. The Bill, if enacted, will ensure the prompt payment of adequate and effective compensation for pollution damage. This arrangement can reinforce our status as an international maritime centre. As ships engaged in international voyages are subject to the same international requirements in other parts of the world, the proposal will pose no additional compliance cost to shipowners. The shipping industry also supports the implementation of the Bunker Oil Convention in Hong Kong.

I hope Members could support the early implementation of the Bill. Thank you, Deputy President.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Bunker Oil Pollution (Liability and Compensation) Bill be read the Second time.

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

**Resumption of Second Reading Debate on Bills**

**DEPUTY PRESIDENT** (in Cantonese): We now resume the Second Reading debate on Voting by Imprisoned Persons Bill.

**VOTING BY IMPRISONED PERSONS BILL****Resumption of debate on Second Reading which was moved on 6 May 2009**

**DEPUTY PRESIDENT** (in Cantonese): Mr IP Kwok-him, Chairman of the Bills Committee on the above Bill, will now address the Council on the Committee's Report.

**MR IP KWOK-HIM** (in Cantonese): Deputy President, in my capacity as the Chairman of the Bills Committee on Voting by Imprisoned Persons Bill (the Bill), I would like to address the Council on the main deliberations of the Bills Committee.

The Bills Committee is generally supportive of the proposals in the Bill to remove the existing restrictions on prisoners' right to be registered as electors and to vote at the elections of the Chief Executive, Legislative Council, District Councils, Election Committee and village representatives.

The Administration will move a CSA to add a commencement clause to the Bill to the effect that the enacted Ordinance should come into effect on a day to be appointed by the Secretary for Constitutional and Mainland Affairs by notice published in the Gazette, in order that the Bill and the relevant electoral regulations will commence operation on the same date. Members do not object to this.

The Bills Committee has held five meetings, at one of which members have listened to the views of the deputations. Its deliberations mainly focused on whether prisoners serving life imprisonment (lifers) should be allowed to use a prison address as the address for the purpose of voter registration.

It is the policy decision of the Administration to preclude a prisoner from using a prison address as the address for voter registration. Consideration has

been given to a recent High Court judgment which found that a place where a person was involuntarily kept did not qualify as one's residence under the Legislative Council Ordinance. Moreover, if a prisoner is allowed to use a prison address as his registered address, it may lead to an unduly high proportion of prisoners in the registered electorate of certain geographical constituencies.

The Administration stresses that as proposed by the Bill, prisoners who do not maintain a home in Hong Kong and cannot provide any proof on the last dwelling place may register at the residential address as recorded under the Registration of Persons Regulation, that is, the address at which they have resided before. This proposal is to ensure that all eligible prisoners will have a registered address so that they can exercise their voting right. At the same time, it can also avoid the risk of vote planting and ensure the integrity of the electoral system.

Some members agree with the Administration's policy. They are concerned that if a prison address is accepted as the address for voter registration, it may lead to an unduly high proportion of prisoners in the registered electorate of certain constituencies, resulting in unfairness in the elections and possibly imbalance in the community affairs in the constituencies concerned. These members think that while prisoners' voting right should be respected, the interests and opinions of the residents of the constituencies concerned should also be considered.

Some other members opine that regarding some lifers who do not maintain a home in Hong Kong and cannot provide any proof on the last dwelling place, they should be allowed to use a prison address for voter registration. These members consider that lifers have a more meaningful connection with the prison address than the residential address last recorded by the Immigration Department under the Registration of Persons Regulations. Since they are mainly detained in Stanley Prison and Shek Pik Prison, they might be concerned about the community affairs there. Depriving them of the right to vote in a constituency with which they are closely connected could thus be challenged as unconstitutional.

Dr Margaret NG will later move a CSA to allow lifers to use not only the residential address last recorded under the Registration of Persons Regulation but also the prison address for the purpose of voter registration.

Deputy President, the above is my report on the work of the Bills Committee.

Deputy President, I would like to use the rest of the time to express my opinions and the views of the DAB on the Bill. The DAB supports the Bill.

As the Court ruled on that day, "the right to vote is without doubt the most important political right". The Bill actually aims at enforcing the Court's ruling in order to remove the restrictions on prisoners' right to be registered as electors and to vote at various elections.

During the deliberations on the Bill, the Honourable colleagues joining the discussions reached consensus on giving prisoners the right to participate in elections. However, as to whether lifers should be allowed to use a prison address as the address for voter registration, views differ and a lot of arguments arose among members. Opposing parties hold different views on this. The DAB does not agree with allowing lifers to register at a prison address. In fact, it is normal to have different views and stands on certain issues as this Chamber is the place for rational discussions. But during the deliberations, I had a feeling that some colleagues, instead of respecting each others' views when expressing or insisting on theirs, considered those who did not agree with their "rationale" as lacking the real intention to discuss and lacking the respect for them. This is in a way monopolizing and privatizing the rationale. Conduct such as this is actually unnecessary and at the same time unfavourable to rational discussions. I believe this is not what most of the colleagues and citizens want to see.

The current laws clearly state that under all circumstances, an address acceptable for voter registration should only be the address of a voter's only and principal residence in Hong Kong. Therefore, prisoners should register as voters in accordance with this principle. One of the existing arguments is whether a prison should be regarded as the only and principal residence. In fact, from the legal point of view, a prison is the place where prisoners are imprisoned. Since they have no choice at all, I do not think that a prison can be considered a home. Moreover, the court case mentioned above has also clearly defined that a prison is not a residence. To use the address of a prisoner's residence before imprisonment for registration is an arrangement to minimize the impact of imprisonment on a citizen in exercising his right to vote. For prisoners, registering in a constituency where they used to live before imprisonment will help them integrate into that community and get back to normal life. As they

have left their own communities for a long time. Thus, when having the opportunity to continue participating in the electoral activities of these communities where they used to live before imprisonment, they will probably pay more attention to the development of the community before they vote. This will help enhance their desire to vote.

On the other hand, the registered address of a voter carries the aim of showing his close connection with that community. However, lifers may have to be transferred to different places from time to time and they are basically secluded from the communities where their prisons are located as well as from the people there. They do not have the freedom to choose their prisons so that there is no such thing as a "close connection". Hence, in respect of using a lifer's prison address as the address for voter registration, we simply cannot accept the point that there is a close connection between a lifer and the community where his last dwelling place is located. Of course, during the discussions, I heard members saying that there was a close relationship between lifers and the environment around their prisons, and that it might be concerned with the availability of fresh air and transport services for visitors to the prisons, which could be improved through voting. Nevertheless, I think these arguments are rather unconvincing.

From the legal point of view, the principle of equal treatment to all is of paramount importance. If electoral officers are allowed to accept lifers' use of a prison address as the address for voter registration, I think it will be unfair to other prisoners, including both long-term and short-term prisoners. In view of this, I consider that the amendments will surely result in many queries and uncertainties. Therefore, the DAB does not agree with Dr Margaret NG's suggestion of authorizing lifers to use a prison address as the address for the purpose of voter registration.

With these remarks, Deputy President, I support the Bill on behalf of the DAB.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, within such a short time, the Bill on giving the voting right to prisoners has been submitted to the Council for deliberation. It is probably unprecedented. However, as a matter of fact, the Government has reacted so quickly to address the issue not because it has the motivation or real intention to safeguard human rights, instead

it was the Court's judgment that forced the Government to face up to the need for law amendments.

In fact, prisoners should have the same right as other permanent residents in Hong Kong to cast their votes. Our society has repeatedly put up this request for nearly twenty years. Unfortunately, the Government's stand on this issue was so conservative that it insisted on refusing to conduct a comprehensive review on whether the restrictions on the voting right of prisoners are against the Hong Kong Bill of Rights (the Bill of Rights) and allowing such perennial anti-human rights provisions to continue to exist. The Government's long ignorance of the provisions on the basic human right of exercising the right to vote by equal and universal suffrage has led to two prisoners' applications last year for judicial review as a challenge the existing laws. Eventually, towards the end of last year, the High Court made a judgment which clearly pointed out that it was against the provisions in the Basic Law and the Bill of Rights to deprive prisoners of the right to vote. Under such circumstances, the Government, which had no choice and no way to escape, was forced to face the reality of law amendments.

Anyhow, Deputy President, although the amendments made to the law this time was forced on the Government, I still have to express my gratitude to Secretary LAM here. I seldom thank him and this is the first time. Without doubt he has been very efficient in handling the Bill. In fact, I was a bit surprised at the content of the Bill, and if you read it in detail, you will find obvious advantages over similar ordinances of other countries or regions in terms of prisoners' rights. You cannot possibly find an ordinance which provides such a high degree of protection for the rights of prisoners even in Britain, United States and many other countries. This is what makes us feel satisfied and proud. Secretary, I am also proud of our Bill because I have found that it is really quite good compared to the laws of other countries.

Hence, I support the Bill in principle and hope that it will be put into effect as soon as possible with a view to ensuring that prisoners receive basic protection of their voting right in the law. As for the practical arrangements for prisoners to exercise their voting right, which are still inadequate, I hope Secretary LAM will pay attention to them in the future. One of the arrangements concerns the provision of election-related information for prisoners that I hope the authorities will create more channels to help them gain access to the information. If they can only rely on the leaflets or other materials delivered by the candidates for

information, what they get will be very limited. We all know that it is very easy to collect information on the Internet, thanks to the seamless flow of information nowadays. I therefore hope that restrictions on this area can be relaxed in future so as to allow prisoners to gain access to the information on the Internet. In this case, they can be get hold of the situation of the elections better and be able to make more justifiable, fair and reasonable decisions. Hence, I hope this can be improved in future.

In addition, today there is a CSA concerning the choice of addresses by lifers. Regarding what has been mentioned by Mr IP Kwok-him just now, personally I have different views, because I think it is unconvincing to use an address recorded by the Immigration Department as the final address as we have discussed, that address may have changed or no longer exist. Since some lifers may have been imprisoned for years and the address at which they resided may no longer exist or has become very different, I think it is extremely unconvincing to insist on using such an address.

Actually there are only a small number of lifers and they are not all imprisoned in the same prison. Therefore, the allegation on the risk of vote planting can hardly stand. Their number is small. If I am right, as far as I remember, now there are 200 or so lifers being imprisoned in different prisons. In terms of number, the possibility for them to gather together to influence the voting results, I believe, is very limited. Hence, I do not agree that we should oppose the use of a prison address as the address for voter registration only for this reason. I think they should be allowed to do so.

Moreover, as long as they are really living in a certain district, they should have the right to express their views on that district as well as on its candidates. Therefore, I think we should respect their opinions. If a lifer is imprisoned in Lantau and his last recorded address is in Kwun Tong, then what are the views that he is to express? What views can he express? The circumstances living place have changed. In this regard, I think their choice, which can be offered by the CSA, should be respected. I think, instead of adopting a hard and fast rule, we should give them the right to choose.

Finally, Deputy President, I hope the Government, having learnt a lesson from the court case, will take the initiative to conduct a comprehensive review on the deprivation of the prisoners' basic rights. In fact, apart from the voting right, the prisoners' right of gaining access to information that I have just mentioned is



also very important. Perhaps I would like to mention in passing that there is also a right of the same importance, that is, the right to health care. Of course, it has nothing to do with the voting right, but generally speaking, it is also a right that prisoners should be entitled to. I hope the Government will make improvement in this aspect as soon as possible with a view to providing them with the basic rights they are entitled to.

Deputy President, I so submit.

**DR MARGARET NG:** Deputy President, the right to vote is one of the most fundamental civil and political rights. Article 25 of the International Covenant on Civil and Political Rights (ICCPR) provides that:

"Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country."

Article 25 of the ICCPR is incorporated into the Hong Kong Bill of Rights Ordinance (the Ordinance) in article 21, and is guaranteed by Article 39 of the Basic Law.

Up to now, imprisoned persons in Hong Kong are deprived of their rights to vote under our domestic law. Detained persons, though not so deprived by law, are so deprived in practice.

In a judgment last year, the Court has declared that provisions which purport to deprive prisoners of the right to vote are unconstitutional. No cogent reasons having been given by the Administration for the deprivation, they are of necessity "unreasonable restrictions" upon the fundamental right to vote.

The responsibility falls upon the Government to rectify the situation by introducing appropriate legislative amendments and putting in place the administrative measures to allow prisoners to vote. This afternoon, we are seeing to it that the first half is enacted. After this is accomplished, this House will go on to ensure that the remaining half follows expeditiously and effectively.

In the consultation preceding the Bill before this House, the Administration posed several options, from giving the vote to all imprisoned persons, to maintaining the deprivation for certain categories. I have no doubt that the former is the best and wisest, since virtually any criterion whereby prisoners are separated into those who should, from those who should not, have their rights restricted, are likely to be open to challenge. Indeed, I could discern no cogent reason in the consultation paper itself, for such selective deprivation.

I support giving all prisoners the right to vote on the additional ground of rehabilitation. It is now widely acknowledged that the aim of imprisonment is rehabilitation, and central to rehabilitation is the sense of connectivity: of being a part of the community, of belonging to the community; and deriving support from that community, and accepting one's responsibility towards that community in sharing common concerns and aspirations.

This, I submit, is an important point to make, as I go on to argue.

The Bill before us is not perfect; time is of the essence to give prisoners their right to vote. But it is incumbent upon the Government as well as on Members to correct such flaws as we are able without delaying the Bill.

One of these is the provisions relating to the address appropriate to a prisoner when he is registered as a voter.

The circumstances of imprisoned persons vary. They serve different terms of imprisonment. They may or may not have a home they can return to after they are discharged. They may be imprisoned for life. They may or may not have families or connections outside prison. Especially in the case of life prisoners, many of them may have retained no relationship with their past residences which have long since been occupied by other people or even demolished. Their prison has become their adopted and only home. They have settled down to make themselves a meaningful existence. At any rate, there is no other place they can more meaningfully call "home". This sense of being

settled where they are is undoubtedly beneficial to their prison life and rehabilitation.

Yet under the Bill, a prisoner is not treated like a human being but just a technical problem to be given a technical solution. If the Government decides that he does not have a home in Hong Kong outside the prison, then his address is "deemed" to be either the last dwelling place in Hong Kong which he has resided in or which constituted his sole or main home; or, if that cannot be established, then the last recorded address for his identity card (ID card). In no case is he allowed to give his prison address for voter registration.

This is most unreasonable. For one thing, it is entirely artificial to use his last home address or his ID address even though he no longer has any connection with it, and it is now the address of someone totally unknown to him. For another, it is inconsistent with the principle of voter registration for the rest of the electorate.

Under section 28 of the Legislative Council Ordinance, you can be registered only under the address which is in fact your "only or principal residence", and that must be a dwelling place in Hong Kong at which you live and is your "sole or main home". It cannot be your last home address, or the address last registered for your ID card that is no longer current.

The Government acknowledges that while ordinarily and under existing law, a prison does not qualify as "home", whether "home" can include a prison for the purpose of the voter registration of a prisoner is entirely a matter of policy.

Deputy President, I note that just now the Honourable IP Kwok-him referred to a decision of the Court that a prison cannot be regarded as a person's residence. This is a position under the common law and existing domestic legislation where there is no legal provisions to allow prisoners to register as voters. This can be altered by domestic legislation. And this fact is not denied by the Government.

However, the Government's explanation is that, as a matter of policy, it is undesirable to allow a prisoner to be registered as a voter under his prison address because the prisoner has no real interest in the constituency of the prison. But he may have even less real interest in a district with which he no longer has any connection. Then, the Government argues that only long-term prisoners should

be allowed to give their prison address for voter registration, and it is hard to decide where to draw the line how long the term of imprisonment should be to qualify as "long term". My answer to that is, there is no possible dispute that this should at least apply to a person serving a life sentence.

The total number of "lifers" in Hong Kong is 274, according to the Government. The Government's final concern, that prisoner votes should not be allowed to upset the balance in a constituency, would be unwarranted.

Accordingly, I shall be moving an amendment at the Committee stage to allow a prisoner serving a life sentence to give the address of the prison in which he is serving his sentence as his address for the purpose of voter registration. It reflects reality, and is in line with the principle for the rest of the electorate under the Ordinance.

In my submission, the law gives effect to policy, and policy should be governed by principle. In the context of the exercise of the right to vote, the applicable principle must be that of article 25 of the ICCPR, and that is, the voting system must be designed so that the vote of an individual can most fully and directly express the individual's will and his free choice. It is the voter's free expression that counts, not administrative convenience, or the Government's fear that the will of certain groups of voters may dominate the interests of a particular constituency.

Of course, the freedom of a prisoner is necessarily restricted, but he should be treated equally as other voters insofar as possible. If he maintains a home outside prison, then that can be his address. But if he has not, and prison has become his only home for the rest of his life unless he is released earlier, then that must be accepted to be his home under the law if he so chooses.

I believe that this is logical and reasonable, and minimizes the flaw in the present Bill. I understand that in a consultation with prisoners, there is clear and substantial support that they should be allowed to register as voters with their prison address. Their wish should not be just ignored. I will appeal to Members to support my Committee stage amendment.

Deputy President, the enactment of this Bill is an important step in rectifying a violation of human rights in the present electoral law of the HKSAR, but there are more, and even more fundamental violations which cry out to be

rectified. I refer, of course, to functional constituencies maintained by all these Ordinances that this Bill seeks to amend today. They violate article 25 of the ICCPR no less than the deprivation of a prisoner's right to vote. After today, when the Bill before us will have been passed, we would indeed be worse off than imprisoned persons. The Government has acted promptly with respect to prisoners' right to vote. It must not shirk from its duty of implementing our rights to universal suffrage.

Thank you, Deputy President.

**MS EMILY LAU** (in Cantonese): Deputy President, I speak in support of the resumption of the Second Reading debate on Voting by Imprisoned Persons Bill.

Deputy President, same as the Members who have just delivered their speeches, I also welcome this latecomer. Deputy President, having worked in the Legislative Council for so many years, I certainly have to take my responsibility because when some bills were passed, we have not got things done — the authorities, of course, have done their work. But those bills were passed by us. We have to take the responsibility for not giving prisoners the right to vote. I am very delighted and longing to see the correction of such mistakes. As our Honourable colleagues have just said, the Secretary has taken prompt actions to deal with this relatively small issue. However, he shows no intention to address bigger issues (later the human recording machine will be turned on again). In fact, the authorities are competent enough to take up tasks. Therefore, they should take prompt actions to address all the issues, whether big or small.

Moreover, I also agree with what Mr LEUNG Yiu-chung has just said that compared with other places, we are better, even for the condition of prisons. Though I have not visited many prisons in other places in the world, Deputy President, as far as I know, the condition of the prisons in Hong Kong is not too bad. At least, riots are rare in our prisons, and the environment there is clean. We do recognize good achievements. This Bill has enabled us to think that it is good to see this group of people, who have been so deprived for such a long time, are now given their right.

Of course, I have to express my appreciation to Mr LEUNG Kwok-hung who sits next to me and others who have shown dissatisfaction with the

Government's performance. It is these people who went to court to challenge the Government. In fact, Mr LEUNG and all others should be highly respected by our society because usually it is futile for us to express our views, over and over again at the meetings, Deputy President. Others may ask: If it is futile, so what? That is why we have to go to court. In this regard, the central government dislikes the courts very much and has said something like "Hong Kong is ruled by judges". Nevertheless, it dares not turn a blind eye to the court rulings. Therefore, after every court ruling, it will take prompt actions to address the issue and never lodge an appeal. If the authorities are so stubborn that they refuse to listen to the rationale of others, then those people will go to court and institute legal proceedings against the Government. To persist on instituting legal proceedings, some people do not even mind spending all their fortune on legal fees. In fact, it is the authorities forcing them to do so. This is really annoying.

However, Deputy President, apart from resorting to legal proceedings, there is actually another way, that is, holding a rally on 1 July. This is the way that citizens demonstrate their power, Deputy President. Before 2003, many people never did this. Some thought that rallies were actually useless but it was just no harm to join. But after the rally in 2003, not too many people would say anything like this. The only thing they would say is that though there may not be several hundred thousand people participating in the rally, they know it is useful if a multitude would take to the street.

Regarding this issue, there is no need for so many citizens to take to the street. But we are delighted to see that there are people who have instituted legal proceedings on this. We hope the prisoners ..... if they have the opportunity to watch or listen to the debate that we are having now, will know that we would like to see the resumption of their voting right as soon as possible.

I strongly support the CSA moved by Dr Margaret NG because I think the authorities' explanation is groundless. This is especially true when the address previously registered may no longer exist, Deputy President, or the residence concerned may have been demolished. They should be allowed to choose. Mr LEUNG Yiu-chung has just said that as at 1 June, there are only 274 lifers. Since the number is so small, why do they still refuse to do so? We can see the experience of some foreign countries from the information provided by the authorities, which shows that both Germany and Belgium allow prisoners to use

the address of a prison as a home address. We hope that Members will give their support and the public can learn a lesson from this discussion.

We have just raised an oral question on the learning of lessons, and the authorities' response is that having learnt a lesson from the SARS outbreak, they have therefore taken measures against the H1N1 this time. However, they refrained from mentioning about the lesson learnt from the legislation of Article 23 of the Basic Law. Anyhow, Mr LEUNG Kwok-hung has taught us the lesson that if you find it hard to deal with the Government, then deal with it through the channel of the law!

I believe the authorities would not like to go to court so often either. Therefore, I hope they can learn more lessons and take more actions. Now, Deputy President, the most important lesson is that we want the SAR Government to be elected on a one-person-one-vote basis. I hope Secretary LAM, having completed this small task ..... Members have in fact expressed their appreciation to the Secretary, who seldom wins appreciation at Council meetings indeed. Am I correct? He has often been accused of being a "human recording machine". How do the news reports in Taiwan say? Again, he is described as a "human recording machine" who never says NO to Beijing. Actually, this is not too much of a pleasant comment. I hope the Secretary will actively seek opportunities to rectify his image. Secretary, you have done a good thing this time. So just keep up with it, fighting for the rights and interests of the Hong Kong citizens as well as all the electors.

I so submit.

**DR PAN PEY-CHYOU** (in Cantonese): Deputy President, prisoners should actually have had the right to vote in public elections. We think that they absolutely should not have been deprived of their voting right. Therefore, regarding this point, we highly recognize and support the efforts of some former and incumbent Members, especially Mr LEUNG Kwok-hung, who has successfully fostered the development of our system through judicial review.

Under the principle of "everyone is equal", prisoners who are permanent residents of Hong Kong should have the right to express their will and intentions. However, with regard to this Bill, we think that some points are worthy of our concern.

First of all, in respect of using the address of a prison as the address for voter registration in local elections, the HKFTU has some reservations about it indeed. We consider that prisoners are forced to live in a confined environment for a long period of time because this is the penalty they receive under the judicial system and the rehabilitation process they need to go through. They live in a place which is not freely chosen by them, and live with some people who do not have the freedom to choose either. This mode of life is very different from that of the ordinary citizens (those outside prison) who have the freedom to live in a free environment with people they like, usually their families and loved ones. We are also concerned about those who have to be imprisoned for a long period of time in a confined environment with other people ..... It means that such an environment may also cast an impact on their emotions as well as their perspectives and needs. These impacts could never be realized by our society, that is, by our citizens outside prison.

(THE PRESIDENT resumed the Chair)

I think prisoners living in such an environment are worthy of our sympathy, but at the same time, this is the most important element in imprisonment. In this case, we inevitably have to be concerned about the possible impact of this mode of life on them, that is: What impact will it have on their decisions?

Secondly, prisoners are basically secluded from their communities. They are not familiar with the environment, social affairs and problems of the communities they live in, nor are they able to discuss district affairs with other residents in their districts. We also know that this new Bill actually restricts canvassing activities in elections that it further prevents them from getting to know more about district affairs. Besides, as prisoners, they are not able to use most of the facilities in their districts. In District Council (DC) elections, for example, most of the issues are concerned with district affairs. But regarding these elections, prisoners do not have any idea about what their districts really need.

If these prisoners, who are not familiar with the district affairs, are given the right to vote in their own districts, it will result in a big conflict, that is, the



conflict between residents and prisoners in the same districts. We think the impact cast by this conflict will be penetrating, and time after time, it will result in the residents' ill feelings towards the prisoners in their districts.

As for lifers, they may face the problem that their original address no longer exists. In this case, should they be allowed to use the address of a prison as the address for the purpose of voter registration? Regarding this question, we have to see what life imprisonment is all about. We all know that in Hong Kong, even a lifer has an approximately fixed imprisonment term. If this is the case, we would like to ask: Why do we have to distinguish lifers from other prisoners? Should other long-term prisoners be given this right, too? If yes, we have to raise a further question: Where should we draw the line? In terms of imprisonment terms, should it be five years, 10 years, 15 years or 20 years? In this case, a grey area will be created. This is the point that we cannot refrain from considering.

On the other hand, lifers actually cannot choose the prison to serve their sentence, but can be transferred to other places by the Correctional Services Department (CSD) during their imprisonment. If this is the case, then how much do their prisons and the districts where their prisons are located actually mean to them?

Some suggested that prisoners be allowed to freely choose their constituencies. In this respect, we think it is unfair to other ordinary electors because they cannot freely choose which districts to live in ..... No, I mean they can choose which districts to live in but cannot freely choose their constituencies because according to the court order, they have to use the address of a principal residence for voter registration.

Hence, the HKFTU fully support that as Hong Kong residents, prisoners should be given the right to vote. We think this is fair and in line with the human rights principles. We also think that while allowing prisoners to exercise their civil rights, we should also care about the mode of life of other citizens and their deciding power in public affairs, that is, their right to participate in the decisions on public affairs.

In view of this, we support the Government's proposals and CSA. I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): President, I too speak in support of the resumption of the Second Reading debate on Voting by Imprisoned Persons Bill, and I am also one of the members of the Bills Committee. Indeed, we encountered two rather different standpoints in the Bills Committee, which I think is due to the reason that we are concerned that if prisoners of a certain prison may choose to vote in the same district all at once after the passing of the Bill, there may be possible impact on the election results (especially in small constituencies).

I remember at a meeting of the Bills Committee, I asked the Government a special question which was concerned with figures. The question was: In which prison were most of the lifers imprisoned now? The information I got was that there were about 200 lifers in Stanley. Basing on this figure, I have come up with my view that first of all, regarding the prisoners' voting right, we all agree that it should be respected.

In fact, I visit prisoners very often, so I have a chance of delivering speeches to them and participating in some rehabilitation work. Therefore, we often feel much encouraged by the changes that we can see in prisoners or even lifers. Many prisoners send letters to my office, asking us some legal questions. Hence, with regard to the intention of prisoners, that is, whether they are surely against the Government when voting ..... Some members object to giving them the right to choose on this ground, but I think this is not a factor to be considered. Instead we should mainly consider that if they all choose to vote in the same constituency, the residents there ..... (I have visited the residents in Stanley and they do have a little concern about this.) Even the number of lifers is limited, but if 200 lifers are allowed to vote in the same constituency, it is very likely that the DC election result will be affected. In view of this, if lifers can be arranged to be imprisoned in different prisons through the implementation of a certain policy, I think my worries would be much allayed. When involving the development of community facilities, and the DCs in particular, most of the electors do not vote according to their political beliefs. Instead what they are concerned about is where a tree will be planted — I am also a District Councillor — and whether or not it will affect my respiratory system or my asthma. In fact, this kind of detailed arrangement of community facilities should be appropriately decided by a reasonable proportion of residents in a certain district.

However, if the Bill is amended according to Dr Margaret NG's CSA, the residents of a certain district will actually have no choice at all. They have expressed their views to me that if such a decision is made, they would consider

requesting the Government to move this prison tailor-made for lifers out of their district or to draw lots to determine in which district the prison should be located, instead of having us to decide its location. These are the views of the residents, which I have the responsibility to reflect. Therefore, I consider this a policy issue instead of a constitutional one.

In some countries such as Germany and Belgium, lifers are allowed to use the address of a prison as the address for voter registration. But many other countries do not adopt this policy for different reasons. Regarding this issue, I do not think we have very different standpoints. The only difference is in the address used for voter registration. The Bills Committee has also discussed about street sleepers under the flyovers, who in fact can also use the location of a flyover for voter registration. Hence, no person will be deprived of his voting right due to his registered address.

We fully support that prisoners should have the right to vote. In fact, I have many friends working in the prisons, but I think we have to balance the interests of various parties when making the decision. Moreover, I believe that prisoners can handle the issue concerning the addresses for voter registration in an open manner with us together. Thus, President, I object to Dr Margaret NG's CSA but support the Second Reading of the Bill. Thank you.

**MS AUDREY EU** (in Cantonese): President, I am speaking on behalf of the Civic Party in support of the resumption of Second Reading debate on the Voting by Imprisoned Persons Bill (the Bill). This is a belated bill. Just now, Dr Margaret NG has talked about the International Covenant on Civil and Political Rights (ICCPR). But I wish to point out that the Hong Kong Bill of Rights (Bill of Rights) was enacted in as early as 1991. Article 21 of the Bill of Rights provides that every permanent resident of Hong Kong shall have equal right and the opportunity to vote and to be elected at genuine periodic elections. This right has been enshrined in our statute book in as early as 1991. Of course, in addition to the provision under the ICCPR, the Basic Law has come into operation in 1997. Article 26 of the Basic Law provides that permanent residents of the Hong Kong Special Administrative Region (HKSAR) shall have the right to vote.

Guided by the principles stipulated in the Bill of Rights, the Basic Law and the ICCPR, any restriction imposed on the citizens' right to vote should be

reasonable, necessary and proportionate. Hence, the Government should not deprive the prisoners' right to vote simply out of administrative convenience. In many overseas jurisdictions, relatively reasonable arrangements have been made in respect of voting by prisoners. But sadly, the HKSAR Government (SARG) has taken no action to follow up on the matter. On 8 August 2008, Mr Simon CHAN Kin-sum, a prisoner, instituted a legal proceeding against the SARG. Separately, Mr CHOI Chuen-sun, also a prisoner, made an application to the court on 15 August the same year. It was not until the court had granted leave to their applications and ruled that the relevant laws are unconstitutional then the SARG had presented the legislative amendments in the form of the present Bill for the scrutiny of the Legislative Council.

However, President, it is not the first time similar incidents have happened. You must still remember the arduous fight with the then Education and Manpower Bureau (EMB) by the Equal Opportunities Commission (EOC) to change the Secondary School Places Allocation System on the ground of gender equality. The EMB had ignored the EOC's request all along until the latter brought the case to court on behalf of the students against the SARG. Of course, there are other cases as well. I remember the application of the Society for Protection of the Harbour for judicial review against the Government regarding the legal presumption against reclamation or the tests to be met for allowing reclamation in the harbour. It was only after the judicial review that the Government had taken some actions in relation to reclamation in accordance with the court's judgment and the relevant legal principles.

Moreover, President, you may also remember the court case instituted by Mr LEUNG Kwok-hung relating to the Interception of Communications and Surveillance Ordinance. That was not a one-off court case because LEUNG had been appealing against previous court rulings. It was not until his case reached the Court of Final Appeal that the Government had conceded and pushed through the legislative amendments in the final hours for our approval. In the days to come, we are certain that the question relating to functional constituencies, as mentioned by Dr Margaret NG just now, would be something that we also have to resort to the court for decision.

President, a group of intellectually-disabled students with special education needs has wanted to take the Government to court on the ground of discrimination. That is going to happen soon, or indeed, it might have happened while I am speaking now. Their complaint arises because the Code of Aid for

mainstream schools does not put students under any age requirement whereas the Code of Aid for special schools has specified an age requirement. Students studying in schools for children with intellectual disability must apply for extension of stay from the Education Bureau once they reach 18. This requirement is in fact a form of disability discrimination which not only goes against the Basic Law of Hong Kong, but also contravenes the United Nations Convention on the Rights of Persons with Disabilities. President, why am I bringing up all these issues? What I want to stress is that we often find the SARG contravening certain fundamental principles or violating basic human rights. But it will not concede until the court has ruled against it.

When delivering his annual address at the Ceremonial Opening of the Legal Year, the Honourable Chief Justice Mr Andrew LI of the HKSAR has more than once mentioned that many judicial proceedings have repeatedly put him under political pressure. Why is that so? It is because the SARG is always not giving the rule of law due respect. It is always neglecting, ignoring or even disregarding those fundamental principles stipulated in international covenants or enshrined in the Basic Law. In order to make the Government change its position, prolonged fights have to be waged in the Legislative Council, in the community or even in courts.

President, it is not an ideal situation that justice could only be manifested through judicial review proceedings. But I am glad that although the Government has previously failed to act according to the right principle in the matter of voting rights of imprisoned persons, it has responded expeditiously after the court ruling. Many Honourable colleagues of the democratic camp just now have also praised Secretary Stephen LAM for tabling the present Bill to the Legislative Council for scrutiny and conducting public consultation within such a short time.

On behalf of the Civic Party, I am delighted to say so because I know the community is generally not forthcoming towards lifting the restrictions on the voting right of imprisoned persons. Many would say, "They only have themselves to blame for serving a sentence. Should imprisoned persons really be allowed to vote, some sort of screening is necessary. Not every imprisoned person should be allowed to vote." Nonetheless, the Government has stand firm after consultation and maintained that the matter is not about whether the proposal has won majority or minority support in the community. It is about principle. In fact, it is very difficult to draw a cut-off line to decide which

imprisoned persons should or should not be allowed to vote. Considering all these, the Civic Party has great admiration for the Government maintaining its principle and supporting the voting right of imprisoned persons.

But, President, the Bill is not certainly contentious and Dr Margaret NG will move a relevant Committee stage amendment later on. President, I want to make it clear that for ordinary citizens, the provisions regarding their registration as electors are stipulated in the Legislative Council Ordinance (LCO) (Cap. 542) and other relevant legislation. Under section 28 of the LCO, the residential address of a registered voter should be "a dwelling-place in Hong Kong at which the person resides and which constitutes the person's sole or main home." The term "resides" means to live in a place permanently or for an extended period, and the term "dwelling-place" means residence. While this requirement is easy enough for ordinary citizens of Hong Kong, views may differ when this requirement becomes applicable to imprisoned persons. The Civic Party accepts that when deciding on the matter, various factors should be taken into account, including policy, security, public interests and community aspiration. No doubt a whole host of problems would be involved if all imprisoned persons can choose to use the address of a prison as registered address for the purpose of voter registration. As Dr PAN Pey-chyou has said just now, an imprisoned person cannot choose the address of the prison where he was imprisoned as registered address for the purpose of voter registration. Moreover, the prisoner concerned might have known nothing about the local community where his prison is located. Simply in terms of headcount, prisoners of a certain prison might make up a proportion, or indeed, a sizable proportion in the registered electorate if it is a small constituency. This might not be a good outcome in terms of the overall interests of the community.

The amendment presently proposed by Dr Margaret NG is not intended to cover all imprisoned persons, but just those prisoners serving life imprisonment (lifers). Her proposal does not require all lifers to use the address of a prison for the purpose of voter registration. It simply provides that for a lifer, the Government would first of all ascertain whether his original dwelling-place is his sole home. We all understand that if a lifer is a public housing estate tenant, his flat would be recovered when he goes to jail. If he lives in private rental housing, his flat would probably be rented out again by the owner. Even the building might have been demolished or redeveloped and the address would no longer exist. Under such circumstances, how can we possibly ascertain whether the address is rightfully his? This is simply questionable.

The scope of Dr Margaret NG's proposed amendment this time is indeed very very narrow. First, it is intended to apply to lifers only. Second, if no address is established to the satisfaction of the Electoral Registration Officer to be the last dwelling-place in Hong Kong at which a lifer resided and which constituted his sole or main home, then he can have two choices. The lifer can either use his original address as recorded under the Registration of Persons Regulations or the prison address where he is serving his life sentence as the residential address for the purpose of voter registration. The proposed amendment is indeed very very narrow in scope. This is an amendment that aims to reflect reality relatively.

As far as I understand, according to the Government's proposed administrative arrangements, the address of a prison would be used as the imprisoned persons' correspondence addresses for the purpose of voter registration. Under the circumstances, giving the lifers a choice to use prison address as their registered addresses for the purpose of voter registration is an arrangement that can better reflect reality and it will not have any implication on the Government's policy. Therefore, I call upon Honourable colleagues to support the amendment proposed by Dr Margaret NG. Through this reasonable amendment with a restricted scope, it could better reflect the real situation of the lifers.

President, I so submit and support the resumption of Second Reading of the Bill.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, first of all, I would like to thank Honourable colleagues who are members of the Bills Committee. I have only managed to attend some meetings of the Bills Committee because I am always so busy. And I am particularly thankful to Dr Margaret NG for spending so much time to improve the Bill.

Discussing this matter today made me feel very sad because I just got news that Mr LIU Xiaobo has been formally arrested and charged. I believe the President might be acquainted with Mr LIU who is a very famous scholar and writer in the Mainland. He has been formally arrested on charges of inciting subversion of state power. I believe there is every likelihood that he would be put into jail.

In our country, prisoners in fact have the right to vote. But at the same time, the court would decide and impose restrictions on the prisoner's political rights. Political prisoners who supposedly have the right to vote cannot do so in practice because this right has been taken away by the court. In some cases, the prisoners would still be stripped of their political rights even after release. Thus, it is clear that the voting right of prisoners has always been a controversial subject for mankind.

What is my view on this matter? Today, some Members are singing praises for Secretary Stephen LAM. While I will not praise him, I must say I am surprised he does not "fight back" at the proposal to relax the restrictions on prisoners' voting right. But of course, it is how things have developed and there are sound justifications for the proposal. Nowadays, it is just wrong to willfully discriminate against a particular group of people. But has it ever occurred to us that our recognition today about the prisoners' voting right means that we have previously considered them undeserving of this right. Why is that so? I have talked about this many times before. When we are meeting in this Chamber and we count all the people present including those in the public gallery, it is clear that the majority of us do not have the right to vote. Only the 60 Members have this special right, am I correct? Even Secretary Stephen LAM does not have the right to vote here. He cannot vote but Members additionally have this special right. Of course, I have this special right because the electors have voted for me and hence, I can exercise this special right. But it is also unfair for Secretary Stephen LAM. I can ..... but he has to accompany Donald TSANG to canvass votes from us. But I have the right to vote, he may even have to canvass my vote because I also have the right to vote. This was what happened when I arrived with the pig mask that day. This is really strange. Why under this particular system, someone who is as powerful as Secretary Stephen LAM has to canvass votes from me who is just an insignificant citizen or an insignificant Councillor?

Now, since we recognize that human rights are not to be taken away willfully, when a person is reluctant to be deprived of his sovereignty which is in fact inalienable, then the only way to make him alienate from his sovereignty willingly is by a constitutional process. Of course, this is an adjustment from The Social Contract of Jean-Jacques ROUSSEAU, right? In ROUSSEAU's thinking, sovereignty was untransferable. But if nothing could be achieved if the sovereignty is not transferred, then we must transfer it through constitutional means to enable the enactment of relevant laws under the constitution. So whenever the government is exercising its powers to deprive the people's



sovereignty, it would be subjected to certain restrictions as well as checks and balances.

Do we have a system like this in Hong Kong? As we are happily engaging in this discussion about the ultimate permission for prisoners to vote, why is it that so many people out there are still not given the right to vote? This really is a big question and it highlights the absurdity of our electoral system. Let us ponder on this. In Mr LIU Xiaobo's case, he could have been entitled to his voting right as a prisoner today. But ultimately, Mr LIU will lose this right because the court would take it away from him. The whole scenario is so miserable. Today, I am speaking here eloquently. But LIU would be a better speaker than me and he is more knowledgeable than me. Pitched against LIU, I would be a no better speaker. Why was it that he had been imprisoned three times since 1989? I feel ashamed. Why is that so? It is because should he live in a country with universal suffrage, there will be no need for him to advocate for this cause so fervently. He need not do so. Should he run for election as a deputy for the National People's Congress, he would no doubt speak eloquently about the ideas which I expound today. Only that he would be better than me. We know that LIU was an associate professor at the Renmin University of China and a renowned writer. I cannot help but think of him as I am speaking here. I cannot help but ask, what is the true meaning of our discussion here today? You all know that I have challenged the Government to change its ways. If it does not do so, I will resign and force by-elections in all direct election geographical constituencies so that we would run a *de facto* referendum on universal suffrage.

I have just read a passage written by SI MA Guang which said ..... Well, of course, I do not agree with the political views of SI MA Guang, I am more inclined towards WANG Anshi. But SI MA Guang was a scholar after all and he had written some illuminating thoughts here. What did he say to Emperor Shenzong? Let me quote his words in Chinese first and I will explain later. He said, "陛下所以相臣，蓋察其狂直，庶有補於國家。若徒以祿位榮之，而不取其言，是官非其人也。臣徒以祿位自榮，而不能救生命之患，是盜竊名器以私其身也。陛下誠能罷制置司還提舉官，不行青苗助役等法，雖不用臣，臣受賜多矣。"

What is the meaning of SI MA's message? When being invited to take up the post of prime minister, SI MA Guang told Emperor Shenzong that he was offered the job because the Emperor knew he was a bold and blunt man (a little

bold, and a little blunt) who would likely do good to the country. SI MA went on to say that if the Emperor merely intended to give him the official position without taking heed to his advice, the Emperor was just treating him as an administrator and not valuing his talents and virtue. If SI MA had accepted this official position on this premise and failed to save people's lives, SI MA considered himself a thief who just stole the name and the office of a prime minister for personal gains such as wealth and career advancement. Finally, SI MA told the Emperor that it did not matter whether he became the prime minister or not. If only the Emperor would really remove the Finance Planning Commission, rescind the positions of Management Officers, and abolish the new policies such as the Green Sprouts Rural Credit Act and the Service Assistance Act, which were the New Reform advocated by WANG Anshi, SI MA would feel equally trusted and truly honoured even if the emperor had not offered him the post.

I have once told off people with the saying, "An official who refuses to shoulder responsibilities for the people should just go home and sell sweet potatoes." Well, this is just a saying from the wisdom of pop culture but it is exactly what the whole thing is all about. Officials with neither vision nor mission would have no commitment. Today, we can see that the Government has made some improvements with this Bill on prisoners' voting right. But I really want to know what about the commitments Donald TSANG made when he was running for the Chief Executive? Emperor Shenzong was a fatuous emperor. Under an incompetent ruler as such, capable ministers could work out nothing with their talents while treacherous ministers could wreck havoc. Today, in Hong Kong, we have both types of officials. I am not a Councillor appointed by an emperor. I am a Councillor elected by the voters. Actually, I have the same wish as SI MA. For things that my voters should have or things that my voters want me to do and say, I will do everything to give them what they want. It does not matter whether I am a Councillor or not. If I could reach such a stage as SI MA, and I would feel equally trusted and truly honoured even if I could not get re-elected.

Ladies and gentlemen, while I like WANG Anshi more than SI MA Guang, I respect them both. SI MA Guang was a conservatist but after all, he had integrity. We all know the history of the Song Dynasty. Both SI MA Guang and WANG Anshi had been prime ministers and they were rivals. But SI MA would not change his political ideas just to please the Emperor in the hope of getting a high position. We have gone a long way from the days when court

ministers were selected by the emperors. Nonetheless, I know this system is still being practised in the Mainland. It is a form of improved tyranny. But I want to caution all of us that we should have the breath of mind of these two ancient scholars, SI MA Guang and WANG Anshi. It does not matter we embrace different political ideologies. But we have to be reasonable when deciding on critical issues. Today, we can talk sensibly in this Chamber because prisoners' voting right is a relatively minor issue and we can all afford to proceed reasonably.

When I was at school, I came across Aristotle's remark, which says: Give me a fulcrum, and I shall move the world. You give me a fulcrum, and any round object whether it is as small as a ping-pong ball, or as big as a football, or even as huge as the earth can still move around it. If we slightly believe that the truth prevail and things like reason, justice, geometry, premise and minor premise, inferences and logic would still work, then I really cannot understand why one could support lifting the restrictions on prisoners' voting right on the one hand while accepting that the majority of the 6 million Hong Kong people should be deprived of the right to select the Chief Executive or elect their representatives in this Council ..... With no intention to be disrespectful to Honourable Members returned by the functional constituencies, I reckon that the present system is really unreasonable.

I ponder over the reason for the same fulcrum to move a ping-pong ball but not a football? Could it be that Aristotle was wrong? I do not think so. I have thought about this matter again and again. I am most concerned that the Government is adopting a confrontation mentality. In its argument with Dr Margaret NG, the Government has demonstrated its excitement in the exercise of political powers. I am most concerned that the Government is being deliberately confrontational because the powers are in its hands. Even if the Government is not putting up a big fight, it can still minor intricacies. What is my worst fear? It must be that even though a timetable for dual universal suffrage is set after interpretation by the National People's Congress, we would just end up with a phoney deal. It could be a proposal from the Government that is beautifully packaged with no substance, like a hot steamed bun with rotten meat inside, or like a walking corpse as I sometimes likened Secretary Stephen LAM to. But today I will not label him thus for he has done nothing of the sort in this matter.

Hence, ladies and gentlemen, today provides a wake-up call and a good lesson for the young people in the public gallery. If we believe in geometry and

physics, and if we believe that there are rules and reasons behind everything, then I cannot see why we cannot have *bona fide* dual universal suffrage in 2012. I cannot see why Prof LIU Xiaobo should be asked to exercise a voting right that is out of his reach in prison. Thank you, President.

**MR JAMES TO** (in Cantonese): President, I will not repeat the principles mentioned by other colleagues. In this Bills Committee, especially on the part concerning the offering of the right to vote to imprisoned persons, not only do I give my support, but I have also proposed on it long time ago. Of course, I have to thank Mr LEUNG Kwok-hung and some colleagues who earnestly practise what they advocate by fighting for a judgment from the Court for certain prisoners so that it is necessary for the Government to put that into practice.

Over these few years, Mr LEUNG Kwok-hung has been taking judiciary actions to force the Government to change these severely wrong policies. In fact, he has done a lot in this respect for the public.

President, in this Bills Committee, I am the first to question the Government why as a principle, should a prisoner be deterred from using the address of a prison as his residential address for the purpose of voter registration. I listened carefully to the Government's arguments and have conducted a profound study. Finally, we are now allowed to put forward an amendment proposed by Dr Margaret NG. Her amendment is indeed better written than mine. I think we should put forward her amendment for scrutiny, so I withdrew my amendment.

In regard to the strict restriction that the address of a prison cannot be used as the residential address for the purpose of voter registration, I was thinking, after listening to the arguments of the Government, whether this is out of its good intention or good will, good policy perspective, or out of its ultimate and underlying discrimination inside itself? I find that this is true, and is really true. This is particularly conspicuous when Dr Margaret NG's amendment points out that this arrangement is only for those prisoners serving life imprisonment who cannot find any address other than the address of a prison as their residential addresses for the purpose of voter registration, the Government still say that they are not allowed to use the address of the prison where they are imprisoned as the registered address. Under the circumstances, I find this a kind of ultimate and underlying discrimination.

Some colleagues just said that these prisons, especially related to prisoners serving life imprisonment — actually, they were referring to Stanley Prison and Shek Pik Prison — there are more than 200 prisoners in Stanley Prison. Of course, I do not believe that all of them do not have other addresses. However, for the sake of discussion, I assume that all these some 200 prisoners want to use the prison address as their registered addresses. The Government then told us that in the constituency where Stanley Prison is located, there are more than 6 000 registered electors. So I think, would there be any evidence to prove that these some 200 people will have any rather collective thinking, political inclination, district interests such that they would render the election outcome of this constituency with more than 6 000 electors very unfair? I really cannot think of any reason, nor is there any evidence to tell me that there will be any such situation occurring.

The words of some colleagues are more ludicrous. They said they could ask these some 6 000 people. I am not sure whether they mean they have asked these people or have asked the residents in the vicinity of Shek Pik. They even said it would be better if they would change their addresses as well. I find this idea ludicrous and ridiculous. As far as the voting rate is concerned, we do not have any data to show that the voting rate or voting tendency of these some 200 people has any difference with that of other some 6 000 people.

Please remember that the Government now says that Dr Margaret NG's amendment is not acceptable. This implies that we will have to find out in the person registration files of unknown years ago — these may be information a decade ago, as a majority of these more than 200 prisoners have been imprisoned for a very long period of time — some addresses basically are not much related to these prisoners. If some prisoners have family members, even though they are serving life imprisonment, they still have the addresses of their family members. In case some day, there is a special amnesty and a certain prisoner can be released — there is a case in which the prisoner was critically ill and he was released before his death so that he did not have to spend his terminal days in prison — he can then have an address where he can reunite with his family members.

However, there are more cases when a prisoner is forced to use the address in the file based on his history outside the prison, this address actually will not carry any material meaning to him or be meaningful in his life, but will only be a so-called "address" retained for him. In all the direct elections or District Council elections, we all use our own addresses in the registration. The purpose of doing so is, in fact, to choose the addresses which are closely related to us or

are highly meaningful to our lives or has a material meaning to us. We will deliberately choose our own residential address instead of our working address, although we may sometimes jokingly say (I have also thought about it anyway), for many of the people who work more than 10 hours per day, if you ask me, I think he may be more concerned about the district in close vicinity to his working place. To him, it may be more suitable to take this district as his District Council constituency, instead of the district of his residence where he sleeps, where he is always under unclear-headed condition and stays for only a few hours per day. Sometimes on Saturdays and Sundays, whether he will stay in his residence may be even more uncertain. Anyway, let us not discuss this basic question. Nevertheless, in other words, a residential address and an address *per se* may have substantial difference in meaning to his life.

Nonetheless, the argument of the Government is that prisoners are not out of their free will to live in the prison. It is one thing for their living there beyond their choice, but while they are living in Stanley, they may also have their opinions regarding the air quality of Stanley, whether a nuclear power station should be built in the vicinity, or whether the bus routes can facilitate the visits from their family members, vicars, social workers, voluntary workers or any people. Therefore, the area of Stanley certainly has more connection to him than the address in his past history. Besides, the building where he lived in the past may already have been demolished, or the address may not exist anymore, or the roads have already been changed, or that street may even be non-existent. However, the Administration still insists that he should use his old address. In fact, that is only an address in one's memory for the purpose of nostalgia.

Therefore, with this deduction, it is very difficult for me to understand the logic of the Government. The only simple thing is, the Government thinks that to allow these prisoners to use the prison address would mean assembling more than 200 people in Stanley and this would easily affect the seat of a District Council Member, which will not be desirable. This point of view is out of absolute discrimination, and is a kind of profound discrimination. I cannot find other reasons to explain the situation. I have listened to the entire arguments of the Government. The Under Secretary was very industrious. He should be considered as doing rather well in this Bill. Although he has already tried his best, he is still unable to give us a reason that I can understand, one that is sufficient for me to understand why the policy has to be tightened to such an extent, why the prisoners serving life imprisonment are not allowed to use the address of a prison as their residential addresses for the purpose of voter

registration. Besides, please remember, when a prisoner has already proved that he is unable to use other addresses as the address which has meaning in his life, the Administration still sticks to its arguments. If this is not discrimination, what then is it?

President, I once have an idea. A prisoner, who is not serving life imprisonment, may really have nowhere to stay. Even if he is released, no one will receive him nor is there any address where he can contact anyone. Of course, frankly speaking, I have no means to know the number of such persons. However, by principles and reasoning, it is actually very easy to calculate the number, and the approach is more orthodox.

Nevertheless, there is still another issue on the so-called "transfer". This transfer to me is meaningful and carries effect. To the prisoners serving life imprisonment, in fact according to history, there would only be two addresses — three addresses for transfer at the most. Besides, after being sent to a particular prison today, he will not be transferred to another prison tomorrow. Therefore, as a matter of fact, his transfer will not be significant. Also, under no condition could he accuse the Government that it has cheated, that in order to deliberately affect the number of people in that constituency, the Government has instructed the police in the prison to move a few hundred prisoners away. This is highly impossible in reality. Hence, the Government will not be wronged by others, or even be accused of having done some undermining work. I thus really find it very difficult to understand — perhaps colleagues here can tell me — under such a circumstance, why does the Government definitely refuse to allow these mere 200 people to do so?

In fact, there are such precedents in overseas jurisdictions. Therefore, the impact would not be too great even though the Administration gives them allowance. Of course, I have checked. For instance, in overseas jurisdictions, there are some prisons keeping prisoners serving life imprisonment. Concerning the relative proportion of such prisons to the setup of the community ..... I am trying to compare it with our existing situation. I quote this example as we actually have to solve the problem of Stanley Prison and Shek Pik Prison. Will these areas have the proportion of 6 000:200 people? In other words, comparatively speaking, the prisoners only account for a small number. Is it so small that there will not be any impact at all? I have tried to find an answer. However, due to limited time, I was unable to find an answer within the past few weeks. Thus, I can only assume that those measures successfully adopted by

others have already been fully considered by them. However, under this circumstance, the Government still does not give its support.

President, I have an idea. Even though we actually have made some studies and collected some figures to prove that these 200 prisoners serving life imprisonment who use the address of Stanley Prison or Shek Pik Prison as their registered addresses (that is, suppose all of them will do it that way) will have some inclination and lead to unfairness, I am still willing to accept. Nevertheless, the Government cannot show us any statistical figures now but just say that this will cause unfairness. What kinds of unfairness will that be? The Administration dare not sound out. It is because if it says anything further, its discrimination will be more and more exposed. However, when it has neither conducted any study nor shown us the statistical figures of overseas studies as a kind of proof, what then can I say? Therefore, I hope that the Government will change its mind after listening to what I say. If a change can really be effected, I am still open-minded and will treat it in an open-minded manner. Nonetheless, if there is not any change, I will certainly support Dr Margaret NG's amendment.

**MR WONG YUK-MAN** (in Cantonese): President, all along, our Government always remains unconvinced until it is faced with grim reality, right? It will not find a toilet unless it has a pressing call of nature. Is that right? As such, after the judicial review instituted last year by LEUNG Kwok-hung, a Legislative Council Member of the League of Social Democrats (LSD), another case will shortly arise at the end of this year. This judicial review sought in November challenges the illegality of the functional constituency elections in relation to company votes and corporate votes. We may not have famous lawyers representing us, but we have people who would like to be accused of wasting public resources and legal resources. I recall that we have been subject to a lot of such criticisms last year. However, here comes the best outcome, is it not? The Voting by Imprisoned Persons Bill is now having the Second Reading debate and is going to be passed today.

That is why we in the LSD say, there would not be any improvement without putting up fights. We cannot rely on empty talks. Honestly speaking, without putting up fights, how will any change come by? Without the judicial review, there would not have been the legislation today, right? It is just like the legislation regulating the surveillance and interception of communications. While we lost the case in the legislation on minimum wages, we had to pay



compensation to the Government. We had to pay the Government a judicial cost of \$1 million. However, buddy, we well know that we have to face up to the consequences and do not think that fighting is always so amusing.

For this reason, I often give talks in secondary schools, telling students not to learn from us. Someone accuse us of giving children bad examples. Yet, I am telling them not to follow our examples, otherwise they may end up in prisons or will be subject to punitive community services. Mr LEUNG Kwok-hung was once ordered to provide community service for 100 hours and it was 120 hours the other time. Altogether, he has provided painting service for 220 hours. If anyone wants to paint a wall, ask Long Hair to do it for you, he is very skillful at it now. We have to pay and shoulder the consequences, buddy, or even go to jail. Some of us did actually go to jail, right? It is not just empty talks, without putting up fights, there would not have been changes.

The LSD adopts a three-throng approach. The first one is to put up a fight in this Council. It has been demonstrated, right? All of you have seen us throwing bananas, wiping off tables and using unparliamentary languages. We have also been penalized for these, right? They are now talking about amending the Rules of Procedures. We have also been reprimanded by public opinion, telling us that our popularity rating is dropping lower and lower. I do not care about it. Indeed, just like what "bow-tie TSANG" has said, I am treating my popularity rating as a floating cloud, right?

Putting up protests in this Council is to resist an unreasonable system, is that correct? To protest on the street, we have to be prepared to submit to punitive community service or to go to jail. We have to pay for it. To stage protests via legal proceedings, we will need to pay money, buddy. We do not have in our political party barristers who can charge hundreds of thousand dollars for a single proceeding. We are just a pauperized party, right? We have to apply for legal aid. Otherwise, we would have to pay out of our own pockets. Mr LEUNG Kwok-hung did not say it out, but I have to say it out. I am not trying to blow my own trumpet, but I want to tell you that we have to pay a price for putting up fights.

For the cause of justice, it is imperative to make sacrifice and also to pay a price, right? However, it reflects that this Government will never take the initiative to introduce reforms. If you push forward one step, it will respond

with half a step. If it has not been cornered like this ..... It is coming closer. No clapping, or else you will be expelled.

(Someone on the public gallery had clapped)

**PRESIDENT** (in Cantonese): Will people on the public gallery remain silent please.

**MR WONG YUK-MAN** (in Cantonese): If you push on one step, it will respond with half a step, right? It must be pushed. The Government refuses to introduce reforms, but it is well aware that some pieces of legislation are outdated. We have a case at present with six incumbent Legislative Council Members as defendants. This is related to the outdated Telecommunications Ordinance. We went to a radio station which allegedly was using radio equipment without licence and took part in its broadcast programme. We were there only to express our views. Persons involved included Emily LAU, SZETO Wah, LEUNG Kwok-hung, myself, Fernando CHEUNG, LEE Wing-tat, LEE Cheuk-yan and Albert HO — he has yet to be served a summon. At least one third of the Members sitting here could be prosecuted. How ridiculous this is. The Telecommunications Ordinance enacted in the 1950s' is a piece of outdated legislation, but the Government does not take the initiative to introduce amendment. On top of that, it has even initiated a legal proceeding. The Government luckily won the appeal and there would be a retrial. We will seek judicial review and I will also apply for a licence. What can the Government do anything about me? I will apply for FM broadcasting again, failing which will cause me to seek another judicial review. I am forced to do so. I am not given any other choices, am I?

With regard to the content of this Bill and the amendments thereof, I will not comment on that anymore. Many of our colleagues have expressed their views. I want to discuss from the political perspective. The Government's approach is despicable in that it never introduces reforms unless it is cornered, buddy. Such behaviour is really offensive. The Government has lost its public mandate and that is why it has to be so cautious and timid, looking so humble and restrained, right? As you are not elected by the people, you will have to be aware of your inadequacies and take the initiative to introduce reforms whenever problems are identified in the legislation. Even if you are not elected by the

people, you should still show sincerity and take the initiative to introduce reforms. You have to demonstrate to us what are the so-called liberal autocracy and benevolent dictatorship. Nonetheless, this is not the actual case. You have to be cornered until you have nowhere else to go, looking as dead as a herring. It was not until you have lost the court case and there are no more legal proceedings then you would introduce amendments or legislation. Such behaviour is really offensive. Am I right?

Therefore, I must take this opportunity to teach the Government a lesson. I am telling you that I will not feel embarrassed even if this is a live broadcast. I must tell the younger generation that the Hong Kong Government has never had any intention to introduce any changes and reforms to these unjust and outdated laws. It has to be cornered, and it then caused poor folks like us to bear the cost as we seek endless judicial reviews, wasting our time, our life, our efforts and our energy. It is only then that the Bill would finally be introduced.

My friends, in this world, things are not that easy to complete, right? Besides, by the time the Government has to introduce legislative amendments, it is still doing this reluctantly, playing tricks at the back. Just as I said before, right? It is playing some tricks here, right? It does not matter. In a Council like this, even if the Administration wants to play tricks, the Bill would be passed all the same. Am I right?

For this reason, when the Interception of Communications and Surveillance Ordinance was examined by this Council, notwithstanding the efforts exerted by Mr James TO and Dr Margaret NG to go through clause by clause, the 200 or so amendments they moved were all being voted down. At that time, I have not yet joined the Council. "Buck-toothed" said in a dignified manner that he would not allow even one of these amendments to pass. If I were here, I am 90% sure that I would have started a fight with him. How can we do things like this? The consequences are here for us to see now. As the Interception of Communications and Surveillance Ordinance is not sound enough, the Independent Commission Against Corruption (ICAC) is therefore having absolutely no respect for the law. Lawyers' phone calls are taped rampantly and beyond permitted hours. If you ask them to provide information, they can simply reply that it has been destroyed. Their behaviour is worse than those secret eunuchs or spying syndicates back in the Ming Dynasty. They seem to be acting out of their minds and do all evil even though they are governed by law. Some people say that the devils are in the details and this has been clearly shown

to them. Never mind, however, they are the majority in this Council anyway. Back then, they had 37 supporters. As we all know, they were even more fierce than tigers. Honestly speaking, for some people, their attitude is they do not want to waste their effort on arguing but would simply screw things up by casting an opposing vote. What do you have to say about this? That is it.

So, my friends, President, we have to make out the true faces of these people, right? Do not be so silly as to be fooled by them. You will find out the truth when the matter is put to vote. I was most furious last time. These people talk about the June 4 every year, but they dared not argue with me. It is because they may be caught in a trap in the debate and may perish, do you understand? As they may perish in the debate, what else would they dare to say? When we talk about past history, what can they say in response? Knowing that to do so would cost them their lives, they would prefer not to argue, only they could mess up with the voting.

Let me tell you, it is exactly the case in this Bill. Therefore, I must point out here that, first, we have to reprimand this Government for lacking in foresight. It is in fact not lacking in foresight, but is just being insensible. It even does so intentionally to invite people to initiate prosecution. Otherwise, it does not enjoy the fun. On this subject, some people have ridiculous ideas. They say that Hong Kong people are more lucky as they can still institute prosecution, people on the Mainland do not even have the chance. While we can sue the Government and stand a chance of winning the case, this will be something far-fetched for people on the Mainland. So they can even make such a comparison, taking this as a great favour from the Government and saying that the Government has been very generous. Do you understand?

Why do they refrain from referring to the early era of the Qing Dynasty? Why do they refrain from referring to the Qian Long Dynasty? In the past, someone used to say that, "Why bother to talk about democracy and universal suffrage? Why did they not talk about these during the British Hong Kong colonial era?" They are good at saying this verse. We have all along been talking about this during the British colonial era in Hong Kong. We were opposed to the package proposed by Chris PATTEN — I am sorry to say that we were in support of the universal suffrage package of Emily LAU. How can they say that we did not fight for it during the colonial era? We fought for democracy in the colonial era and were even being arrested for that. I can tell you that all of us do have track records. We have all along been saying these things, not only today.

To ask for amendments in the law, we have to force the Administration to go to the court. It has to lose in the legal proceedings before it is prepared to legislate or introduce amendment. Before us, we still have a number of outdated legislation impeding human rights. It seems that we are about to legislate on the minimum wages shortly. Let me tell you, it is another issue that will give rise to numerous controversies and debates and there will be confusions over a long period of time next year. Let me tell you the stance of the LSD, we insist that maximum working hours must be included in the discussion of minimum wages. There will not be any compromise. We will not give way.

Yet, the Government is playing tricks, using the same set again. It will make attempt to convince the democratic camp not to argue, persuading them to accept minimum wages first, to be followed by the maximum working hours a little later. Then, our colleagues in this Council will say that they oppose to the Government for not setting down maximum working hours, but they will give the Administration two years to sort this out. Do not let me hit the right answer, however, in most cases, I am right. This is the approach the Administration will definitely adopt. In the end, there will never be any changes. There will never be any structural change, chiefly because the Government refuses to introduce reforms on its own initiative.

In fact, this point should also be easily understandable. When a system is in place for a very long time, it will inevitably become rigid and lose its flexibility. This is the same for people. If you implement a policy for a long time, you will also become rigid and your will power will become thickened, making you lose the energy to introduce any change. Therefore, someone must hit him on his head and until it is bashed and battered to wake him up, right? Then, he will know that something is terribly wrong, and would proceed to make changes. This is the same with the Government.

A democratically elected government can have something to rely upon as it has the peoples mandate. It is elected by the people. It has something to rely on, right? A government not elected by us will practice executive hegemony — not executive-dominance, but executive hegemony and dictatorship rule, right? If you have the guts, you may go ahead to do so. However, as most people in Hong Kong are conservative and regard the LSD as trouble-makers, the Government can therefore continue to have its way.

We do not have other choices, how many days are there before the 1 July? There is only a week — seven days to go. Therefore, I am making an appeal to

the public here. The best thing to have is even when the President will take to the street. For those who listen to my speech, please show forth to Mr Lam the Eunuch the extent of the people's power on the 1 July. We do not care whether or not prisoners will be voting for the LSD. As we can institute judicial review, we therefore will not give a damn to this.

Two days ago, a District Council by-election took place in Wan Chai. Though we lost in the election, we still received the vote from an imprisoned person. Indeed, how amazing this was. At least, it is what we could see after we have won in the judicial review. Last time in Sha Tin, was there any voter like this one? Does he remember — yes, he nodded his head, meaning yes. We had one this time in Wanchai. It was indeed very amazing. Though only the right of a single person was involved, we had to protect his right all the same. You talk about protecting the right of the majority, so why can we not protect the right of an individual? He also has his right. In the end, two persons were protected and they were granted the right to vote. They might have voted for the DAB and not us, but they should enjoy this right, is that right? We have done something good, we really have.

At first, what was on the mind of Mr LEUNG Kwok-hung? He wanted to at least help the detainees to fight for this right as they should have this right before they are convicted. These people may be detained in custody for as long as three months. The upcoming election may be held next month, if they remain in custody, they may lose the right to vote. However, he may be acquitted by the court. Do you understand this situation? At first, he wanted to help these people, then those prisoners serving long sentence came up in his mind afterwards.

That is why we think that in this matter, we must have a clear conscience. However, once again, I want to remind the Government, do not react only until you are cornered, do not cause us to waste so much of our time going to the court to apply for a judicial review. Besides, a very cumbersome procedure is involved here, that is, the first thing is to raise money. We have to apply for legal aid and the procedure would take a long time. Do you understand? It is time-consuming, buddy, making us feel very frustrated and weary. So, do not ask us to do so every time.

I am telling you here, we have a series of actions and a few cases have been scheduled. Let me tell you, we have been addicted to instituting judicial reviews and have found it very interesting. We have no other alternative way as we

cannot win him in the fight. We are neither as handsome, nor as rich, as him. He is going to have a pay cut of about \$20,000, is that a lot of money?

No wonder even the policemen have to put up a strike. We support the policemen. There is no reason to cut their pay, right? No wonder we have objects throwing from a height in Sai Yeung Choi Street. Yesterday, a stone was thrown. I was there at that time and was almost hit. I heard a loud sound after I had walked a few steps. It was a piece of pebble this big. Yet, the incident was not reported in the newspaper. Let me tell you, nobody was injured at that time, if I were injured, there would have been reports. Someone may have said that I serve it right — at least someone would have reported like this, right?

On 1 July, please remember, the only thing we can do is to take to the street. We must follow the example of these policemen. It is the first time in 33 years that they are going to take to the street, and they choose to take the action two days before the 1 July. Therefore, starting from today, I have to change my view towards the police. Thank you, President.

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

**MR ALBERT CHAN** (in Cantonese): President, taking to the street on 1 July is an appeal made by the democratic camp and it is also an appeal made by people in support of democracy and human rights in the past years. It is an opportunity for the people in Hong Kong to show their stance, a way of protect against government policies which deprive them of their democratic rights and about the executive hegemony of the Government, as well as a thermometer on people's feeling.

President, just now, the Party Chairman of the League of Social Democrats (LSD) talked about the Government, in particular the bureau of "Mr Lam the Eunuch". He said we must hit him on his head to wake him up, giving him a concussion so that he could be more sober. However, the problem of this bureau is that it has a very strong caninity. It must have a master to give it orders, so that it will be as obedient as a Pekingese. President, the phrase written on my clothes is "do not behave as the robbers", but it has nothing to do with the discharged prisoners. In fact, I want to expose it only when we discuss the next agenda item about Taiwan. However, since our party chairman mentioned head

hitting and caninity just now, I would therefore want to criticize the Constitutional and Mainland Affairs Bureau.

President, on the subject of human rights, I believe you would remember that I reprimanded "Mr Lam the Eunuch" in this Council earlier on for choosing to visit the pandas in Sichuan instead of visiting those Hong Kong people detained on the Mainland. In fact, it reflects that the caninity of the Bureau is very serious. The Secretary judges people by wealth and power, turning a blind eye to those people facing hardship, pain and suppression. He despises discharged prisoners and people in confinement. "Long Hair" might have been despised upon when he instituted a judicial review back then. In the Secretary's opinion, the Government would surely win in this type of legal proceedings. Therefore, he was totally unprepared for the follow-up action to be taken after the Government lost the case. All of a sudden, the judgment made by the court was like a bolt from the blue. It was not until then that he started to take action. His snobbish approach and attitude is fully shown. He treats people detained on the Mainland just as he does to the prisoners in Hong Kong. As such, if he does not change his attitude, under the policy of this Bureau, the rights of Hong Kong people will still be deprived, discriminated and bullied.

President, people in Hong Kong are furious with the Constitutional and Mainland Affairs Bureau. Talking about constitutional development, democracy and human rights, prisoners have been deprived of these rights for many years. It is not until this day then we have the chance to rectify this situation. However, the basic democratic rights of millions of Hong Kong people are still deprived and discriminated by this Bureau which behaves very much like a dog and a minion. Discussions on the issue of direct election have been going on for many years, yet the timetable for implementing dual universal suffrage and abolishing the functional constituency election depriving the people's rights is repeated over and over again without coming to a conclusion. This Bureau still adopts its minion attitude, turning a blind eye to the basic right of 7 million Hong Kong people. He continues judging people by wealth and power, and the basic human rights of the public are deprived of by his caninity.

Just now, I talked about the caninity of some officials with Members of the pro-government camp during lunch. They told me not to insult dogs for they are adorable. It is true that some dogs are more humane and more lovely than those inhuman officials. Seeing these inhuman and snobbish officials give us a feeling that the taxpayers' money is used to maintain these inept officials, and if people in Hong Kong do have a choice, they would rather keep a dog than these



inept officials. These inept officials use their position to bully the people of Hong Kong by wielding the power and influence of "Grandpa", depriving Hong Kong people of their civil and political rights. In fact, many ordinances and administrative measures in Hong Kong have basically breached the International Covenant on Human Rights.

The LSD applies for judicial reviews time and again, and many of them have been instituted by "Long Hair". In regard to the issue of the Chief Executive, I applied for a judicial review a few years ago. In the end, it resorted to the interpretation of the Basic Law by the Standing Committee of the National People's Congress, and further exploited our basic rights in law and justice. Under such a regime and regulated by such laws, the only channel for the Hong Kong people to express themselves is to take to the street on the 1 July. To the haughtiness of these dogs, we should at least deal them a heavy blow. To take to the street on 1 July is the only way for the people of Hong Kong to exert group pressure on the Government — in particular the Central Government — for changes in its policies on Hong Kong. If the people in Hong Kong do not express their discontent and dissatisfaction by means of this action, then they will still be bullied, distained and despised by these inept officials. If people in Hong Kong do not want to be disdained and despised by these inept officials, they will have to come out on the 1 July to voice their anger and reprimand the officials clearly, telling them that the people of Hong Kong will not tolerate their bullying and will not be deprived of our civil and political rights any longer.

President, the amendment proposed to the Ordinance reflects the fact that the relevant Bureau has neglected its basic responsibility. If "Long Hair" did not institute the judicial review to bring up this issue again, and point out the inadequacy and mistake of the Government, it will go on bullying us and depriving our rights with its executive hegemony. Therefore, I appeal to the people in Hong Kong — unfortunately those imprisoned cannot respond to my appeal, but I suggest they could make noises by hitting their iron bars or iron cans, to convey to the Government through such noises that the prisoners are not satisfied with its policies.

President, I also want to point out that the Government is now deserted by its followers. Police officers will also take to the street to expose the inadequacies of government policies. I, "Long Hair" and "Yuk-man" rarely give our support and praise to the police, as we have had conflicts with them in marches, however, we see that this is the first time in more than three decades that they stand up to express their discontent about government policies.

Behaviour as such is an act of bravery and absolutely it should not be disdained by those inept officials. Therefore, all the police officers should take to the street with people in the territory on the 1 July. Thank you, President.

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

(Mr LEUNG Kwok-hung indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, you have spoken already.

**MR LEUNG KWOK-HUNG** (in Cantonese): I wish to make some clarifications about my speech.

**PRESIDENT** (in Cantonese): OK.

**MR LEUNG KWOK-HUNG** (in Cantonese): Firstly, the judicial review was not instituted by me alone, two prisoners were also involved. Secondly, I quoted Aristotle just now, but it might have been Archimedes. It comes back to me after I have gone outside. I am sorry about that.

**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 Constitutional and Mainland Affairs to reply. This debate will come to a close after the Secretary for Constitutional and Mainland Affairs has replied.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, on 6 May, the Government submitted the Voting by Imprisoned Persons Bill (the Bill) to the Legislative Council, and the Bills

Committee on the Voting by Imprisoned Persons Bill (the Bills Committee) has completed the scrutiny of the Bill. I would like to express my heartfelt thanks to the Chairman of the Bills Committee, Mr IP Kwok-him, as well as to all members of the Bills Committee and colleagues of the Legislative Council Secretariat, who have worked closely together over the past period to enable the smooth completion of the scrutiny of the Bill.

In December 2008, the High Court passed the ruling on three judicial review cases on prisoners' right to vote. The Court ruled that the existing across-the-board restrictions on prisoners' right to be registered as electors and to vote were unconstitutional, and that arrangements should be made to enable prisoners and remanded unconvicted persons to vote on the election day.

The Bill seeks to take forward the Court's judgment on the judicial review cases. The Bill will remove the existing disqualification of prisoners and persons convicted of election-related or bribery offences from being registered as electors and from voting under the Legislative Council Ordinance.

The Bill will also amend the relevant disqualification provisions in the Chief Executive Election Ordinance, the District Councils Ordinance and the Village Representative Election Ordinance.

Moreover, regarding the requirements on the electors' registered addresses, the Bill will specify the arrangement to enable eligible prisoners who do not have a home in Hong Kong outside the prison to use their last dwelling place in Hong Kong as the address to register as electors. If they have no proof on the last dwelling place, they may use the residential address last recorded under the Registration of Persons Regulations to register as electors.

At the meetings of the Bills Committee, some members proposed that prisoners serving life imprisonment should be allowed to use the prison address as their residential addresses for the purpose of voter registration, while some members opposed to the proposal. The Bills Committee has discussed the issue thoroughly.

We consider that the registered addresses of all prisoners should be handled in accordance with the same set of arrangements. Therefore, we disagree that different arrangements should be adopted for lifers and other prisoners.

Under the existing arrangement, the Long-term Prison Sentences Review Board reviews each indeterminate sentence on a regular basis and makes recommendations to the Chief Executive on whether it can be commuted to a fixed term. The sentences of commuted prisoners are essentially the same as prisoners with a fixed term of imprisonment, they should thus be treated equally.

We neither do not support that the address of a prison be used by prisoners as a registered address for electors, for the fairness, openness and integrity of election should be ensured. For security reasons, lifers may be transferred to different penal institutions from time to time, subject to the operational need of the Correctional Services Department (CSD). If these lifers are allowed to be registered to the prison address, the constituency to which a prisoner belongs may in a way be seen by some as being subject to the CSD's arrangement, which will affect election results. The authorities is of the view that doubts in this respect should be avoided.

Some Members pointed out that lifers have a closer connection with the community where the penal institutions are located than that of their last dwelling place. We do not agree with this view, for lifers may be transferred among different penal institutions from time to time, coupled with the fact that they are held in confinement and separated from the community. They can in no way be regarded as having established an obvious connection with the community where the penal institutions are located.

On the contrary, some prisoners may be quite familiar, or even have deep attachment with the community where they originally resided, for their relatives and friends may live in those districts. It is thus unreasonable to require these prisoners to use the address of a prison as their registered address.

Moreover, in the High Court judgment on a judicial review on the voting rights of prisoners, the application by a prisoner for using his prison cell as the register address for electors registration was rejected. I will now quote the 194th paragraph of the judgment of the High Court: "the Electoral Affairs Commission was quite entitled to come to the conclusion that Mr CHOI's prison cell in Stanley was not his dwelling place in Hong Kong at which he resided and which constituted his sole or main home at the time of application for change of address."

Ms Emily LAU and Mr James TO have mentioned that in certain overseas regions, prisoners are allowed to use the address of the prison as their registered address. Such an arrangement is actually existent in Belgium and Germany, but in other jurisdictions such as Australia, Canada, France and South Africa, as a standard practice, the last dwelling place before the imprisonment of a prisoner is used as his or her registered address.

Having considered the above factors, we consider it inappropriate to allow lifers to register with the address of the prison. The persons concerned should be subject to the same registration arrangement applicable to other prisoners.

Regarding the provisions related to voting rights in the Bill, since supporting arrangement has to be implemented under the subsidiary legislation providing for practical electoral arrangements, the relevant provisions can only come into effect later. In this connection, the subsidiary legislation providing for practical electoral arrangements has been submitted to the Legislative Council today. We will strive for the early completion of the legislative work to bring the relevant provisions into effect as soon as possible.

Other provisions include in the Bill mainly seek to provide for the arrangement for prisoners who do not have a home in Hong Kong outside the prison for the purpose of registration as electors. Since the implementation of the provisions concerned are not subject to the amendments of the subsidiary legislation, we plan to implement the principal provisions under this part first on 3 July upon the passage of the Bill by the Legislative Council.

President, the amendments to the relevant legislation will provide a consistent and integral legal framework, as well as appropriate voting and security arrangements, for prisoners to exercise their voting rights in all open elections.

I will then respond briefly to the views expressed by Mr LEUNG Yiu-chung. He has made particular mention of the right of prisoners and persons held in custody at panel institutions in accessing election-related information should be ensured. If security and resource conditions permit, the CSD will support the arrangement on all fronts to ensure that prisoners and persons held in custody who have registered as electors will have access to election-related information. These include arrangements on several fronts.

First, to ensure that electors who are serving prison sentences receive the election-related information as early as possible, the Registration and Electoral Office (REO) will send the poll cards and introductory leaflet to the penal institutions, which are used by these prisoners as their corresponding address, as far as practicable. The CSD will also keep additional copies of the candidates' introductory leaflets for prisoners who are electors as reference. The REO will follow the existing practice for mailing election advertisement to provide candidates with gum labels containing the addresses of registered electors, including those serving a sentence of imprisonment, so that the candidates concerned may send the relevant election advertisement to all electors concerned. Moreover, prisoners and persons in custody will surely have access to election-related information via the report on newspapers provided at panel institutions, or the report of the mass media on radio and television.

President, I would like to express my gratitude to all Members for providing views on all aspects to the Government. I implore Members to support the passage of the motion on the Second Reading of the Bill.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Voting by Imprisoned Persons Bill 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): The Voting by Imprisoned Persons Bill.

Council went into Committee.

### **Committee Stage**

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

### **VOTING BY IMPRISONED PERSONS BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Voting by Imprisoned Persons Bill.

**CLERK** (in Cantonese): Clauses 1 to 4 and 6 to 10.

**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: That clauses 1 to 4 and 6 to 10 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.

**CLERK** (in Cantonese): Heading of Part 1.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Chairman, I move the amendment to the heading of Part 1 to delete "Short Title" and substitute "Preliminary".

Part 1 of the Voting by Imprisoned Persons originally includes "Short Title" only, but since the addition of the commencement clause is proposed, corresponding amendment has to be made to the heading.

The Bills Committee on the Voting by Imprisoned Persons Bill supports the amendment which it has scrutinized. Thank you, Chairman.

*Proposed Amendment*

**Heading of Part 1 (See Annex 1)**

**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: That the amendment moved by the Secretary for Constitutional and Mainland Affairs be passed. 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 amendment passed.



**CLERK** (in Cantonese): Heading of Part 1 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the heading of Part 1 as amended 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.

**CLERK** (in Cantonese): Clause 5.

**DR MARGARET NG** (in Cantonese): Chairman, I move the amendment to clause 5.

Chairman, during the Second Reading debate earlier, I have explained clearly the content of the amendment to clause 5 of the Bill in English. Originally, I intended to explain the amendment in Chinese again at this stage. However, since Ms Audrey EU has already given a very detailed explanation, while Mr James TO has provided good supplementary information and lots of responses, and Mr LEUNG Yiu-chung and Ms Emily LAU have both carried out detailed discussions, I will be wasting Members' time if I still make a repetition here. Besides, I can hardly present the case better than they do. Clause 5 of the Bill seeks to amend section 28 of the Legislative Council Bill, which stipulates the procedures and addresses allowed to be used by imprisoned persons. Members will see that it is a straightforward amendment and the scope is quite narrow. But still, a fair approach should be adopted.

Chairman, I would like to respond to the reasons put forth by the Administration in opposing my amendment. First, it said that the same arrangement should be applicable to all imprisoned persons, including prisoners serving life imprisonment, and all prisoners should be treated equally. Chairman, persons with the same background should definitely be treated equally. However, if the Government requires that the same arrangement be applicable to persons with different backgrounds, it is not treating them equally but is trimming the toes to fit the shoes. That is to say, the Government should just adopt the simplest approach, for after all, in its view, giving them the right to vote is more than enough. My amendment seeks to make the most out of the restricted condition to provide prisoners with choices. Therefore, when in reality, things are not the same, the so-called equal approach adopted by the Government will be impracticable.

Second, it said that the situation of prisoners serving life imprisonment is the same as other prisoners, for the Chief Executive would from time to time order certain committees to conduct reviews or re-assessments on whether their sentence can be commuted for the purpose of an earlier release. However, under the law, prisoners are classified into persons serving life imprisonment and those serving a fixed term, which we formerly called penal servitude for a definite period and penal servitude for life imprisonment. We are talking about two different situations here. In the case of a fixed term imprisonment, the prisoner concerned knows when he will be released, but not in the case of lifers. Besides, whether they are serving a fixed term imprisonment or life imprisonment is not the only factor I use to differentiate them, but that the situation where lifers who do not have a home outside the prison is rather common. In this connection, it is not at all justified to oppose my amendment by reason of the existence of a review mechanism.

Third, it said the arrangement would undermine the fairness of election. Chairman, this is simply ridiculous. For there are at most 274 prisoners serving life imprisonment now. Even in the case of the District Council election, please tell me how the fairness of election will be undermined. Chairman, it is true that certain districts are populated by certain types of residents. Hong Kong Island is a case in point, for a majority of lawyers live on the Hong Kong Island. In that case, should lawyers be forced to live in different districts in order to achieve fairness in election? Or, should various interest groups be included in every district? Indeed, the Government is pushing through its policies on those residents who genuinely live there. It is unjustified too.

Fourth, since it is the decision of the authorities to transfer prisoners among different prisons, the Government fears that it will be criticized for transferring prisoners deliberately to manipulate their votes. It is a completely ludicrous idea. Chairman, the first reason is that if the Government really respects the right of secret ballot, no one can say that the Government knows who are the candidates the prisoners vote for. If so, how will it be criticized for making deliberate transfers? Besides, the transfer of prisoners is definitely subject to regulation, and it is impossible for the Government to make the transfer arbitrarily. Which prisons should certain prisoners be imprisoned is definitely governed by policy and subject to regulation. Hence, this cannot stand to reason.

Fifth, it said that some prisoners have close attachment to the district they originally resided. However, if the Government respects the attachment of others, it should respect their choices too. If they have attachment to the district where the prison is located, why does the Government refuse to respect their attachment in this respect? I am not saying that all prisoners or lifers must use the address of the prison where they are imprisoned for voter registration, but when they have no other connection or when they do not have a real "home", and that they agree to use the prison address as their registered address, they should be allowed to do so. They should be provided with a choice. The Government said that it respected the attachment of others, but it fails to respect the choices of others. Chairman, I do not know what I can say. Sometimes, I cannot but leave it, for these unreasonable arguments are beyond my reasonable language.

Chairman, sixth, the Secretary has once again read out the judgment of the Court. In this regard, I have made it crystal clear during the Second Reading debate that since there was no legislation dealing with the voting rights of prisoners at the time, the Court could only follow general principles and ruled that a prison could not be regarded as a residence. Chairman, it is a fact that the Court has made such a judgment under the existing legislation. But it is exactly in view of such a situation that we demand the legislation be amended to offer prisoners a choice to use the address of a prison for voter registration. I think the Secretary's remarks are completely groundless. How can he, being a government official, be unaware that his remarks are completely groundless? It is evident that they are all insincere. Chairman, regrettably, for record purpose and with due respect to Council procedures, I still have to refute his arguments one by one. I well know that the Government will not change its mind. For no matter whether it accepts your argument or not, and no matter whether you are

justified or not, it will bent on having its own way and doing what it wants. Hence, I venture only to explain the case to the public and not the Government.

Chairman, I would like to take this opportunity to bring out one point. During the course of discussion on the Bill, we noticed certain irregularities in the original Ordinance, which is related to the Chinese text of the legislation. Chairman, you can see that section 28 of the Legislative Council Ordinance include two points, it imposes two requirements on registered addresses. First, the residential address registered must be the person's only or principal residence in Hong Kong. What are the criteria for being a principal residence? Section 28(3) of the Ordinance stipulates that, "In this section, a reference to a person's only or principal residence in Hong Kong is a reference to a dwelling-place in Hong Kong at which the person resides and which constitutes the person's sole or main home." The English text is simple and straightforward, but the Chinese text of this subsection is infested with problems. The first question, in fact, is: Can all places be called a "residence" or "principal residence"? No, a place must satisfy several conditions in order to be regarded as a residence. The first condition is that the address notified must be a place in which the person resides, which means the person really lives there. Second, the place must be a "dwelling-place". In other words, it cannot be somewhere underneath a flyover or a unit in a commercial building. It must be a "dwelling-place", or a residence. Third, it must be a person's sole or main home. A person's home is different from a residence. Residence refers only to a residential address but a person's home is a place where one settles down and regards it as his or her home. "Home" and "accommodation" are different. You may stay under the roof of others, while your home is located elsewhere. That is the purpose of including section 28(3), which introduces the concept of home to the Ordinance as a condition for deciding which place should be regarded as the principal residence for registration. It is a very important condition. Why does the Government fail to differentiate a person's "home" from a "dwelling-place"? Chairman, why do I feel so unhappy about that? For I have to use "家居" (house) in the original text in my amendment, and not any other Chinese term to reflect the term "main home". Chairman, I do not have a good foundation in the Chinese language, but since the Chinese text has to be provided, I have to make extra efforts to study it.

I am not convinced, for I do not consider that the term "家居" (house) can be translated into "home". The concept of "home" is straightforward, and the difference between a person's home and his residence is clear-cut. Home means

"家". When I say "Hong Kong is my home", it means "香港是我的家" (Hong Kong is my home), but not "香港是我的住宅" (Hong Kong is my residence) or "香港是我的住址" (Hong Kong is my residential address). Even if I do not have a residential address in Hong Kong, I cannot say I have no home in Hong Kong. This is outrageous. Chairman, in fact, when I was studying in the United States, my family members in Hong Kong had already migrated, and I thus did not have a residential address in Hong Kong. But still, I cannot say that I do not have a home in Hong Kong. For when I was studying in the United States, Hong Kong was my home. So the concept is clear.

However, under the existing Ordinance, the word "home" is translated into "家居" (house). Chairman, I have looked up many books, for I do not know if I am right. I then found out that no one has ever translated the term "家居" into "home". I have looked up a lot of dictionaries and lexicons and unexpectedly found an article titled "'家居'還是'居家'" ("house" or "living at home"). The article written by YU Minhua (虞敏華), which is published in an academic periodical, gives an account of the meaning of the terms "家居" and "居家". He says that sometimes the two terms "家居" and "居家" are used incorrectly by many people. He quotes the interpretation of the term "家居" stated in Hanyu Daicidian (《漢語大辭典》), which means staying at home idly after resigning from an office or in a state of being unemployed; or family property or civilian dwellings. It may refer your house, but still not your home. It does not mean "家" (home), what it is referring to is only the whole family. As for the term "居家", it is kind of identical morphemes in reverse order, it is a common usage in the Chinese language to reverse the word order of a term. However, he says that the terms "家居" and "居家" share certain common meaning, which is staying at home idly or living leisurely at home. But still, the terms do not have a meaning of "home".

Chairman, today, I am at my wits end. If I am allowed to use the Chinese terms I consider accurate in the amendment I proposed, I definitely will not choose the term "家居". However, since "家居" is used in the original text of section 28, I have no choice but to use that term. I did bring this issue up for discussion with legal officers from the Law Drafting Division, but they said they did not intend to consider the different meanings carried by the terms "home" and "residence". They merely considered that two different Chinese terms should be used for two different words in the English text, but they took no account of the reasoning behind.

Chairman, even if the amendment I proposed today cannot be passed, I still hope that the authorities will, out of its respect for the Chinese language and the law, enhance the accuracy of the Chinese text. Law, unlike the spoken language we use everyday, must comply with a certain standard. I hope the authorities will respond to this shortly. It should give serious consideration to this, so that the Chinese text of the laws in Hong Kong will not be so unrepresentable.

Finally, having considered the support that my amendment received from many Members and the unreasonableness of the Government, I implore Members to change their mind to give unanimous support to my amendment. Thank you, Chairman.

*Proposed amendment*

**Clause 5 (Annex I)**

**CHAIRMAN** (in Cantonese): Members may now debate the original provision and the amendment jointly.

**MR RONNY TONG** (in Cantonese): Chairman, sometimes, an excessively humble colleague may embarrass others. When Dr Margaret NG said that her use of the Chinese language was not good enough, I thought for us, we would have to start learning again from the kindergarten.

Chairman, I think the issue today is rather simple. We are now discussing two different concepts. Dr Margaret NG talked about the difference between home and residence earlier, but actually, this is not the tenet of the discussion today. In the legal context, a prison definitely cannot be a person's home, for imprisonment is against the will of a prisoner. For this reason, under a majority of enactments and even the common law principles, a place for imprisonment does not satisfy the requirements for being a home or legal residence. Hence, a place for imprisonment belongs to neither one of the above two.

Chairman, is it the issue we have to discuss? I think absolutely not, for we have to choose the more general one between the two. In our discussion, we have to identify an address more closely related to prisoners and their living

environment. To assess the issue from a more general angle, I think it is absolutely against the basic logic to use a place which does not exist in reality or a prisoner will never have the opportunity to return to a place which he could regard as his residence or home. Why should the authorities insist that a place where the prisoner will never have the opportunity to return to or a place that does not even exist be used as the registered address for voter registration? Chairman, this is completely unjustified. Hence, logically speaking, if the assessment is based on the principle of choosing the more general one between the two, we consider that the only option that can better reflect the actual situation is the place of imprisonment of a prisoner.

The Secretary said earlier that prisoners would be transferred from one prison to another from time to time. Chairman, we too move houses from time to time. We will also move to another house at a certain point in time. Hence, this is in no sense a justification for insisting that the former address of a prisoner be used as a residence. In a nutshell, a prison where the prisoner is imprisoned when the registration and voting are conducted is the place where he can be found, which should also be his only residential address. Surely, if the term of imprisonment of a prisoner will likely be due within a short period and the prisoner has the opportunity to return to his so-called home or residence, I will then consider the remarks of the Secretary logical and reasonable in some measures.

However, under the circumstance pointed out in the amendment proposed by Dr Margaret NG, the argument is completely illogical and irrational. The case is in fact similar to that of the amendments to the legislation on eavesdropping. In other words, the Government insists on having its own way even when the situation is extremely irrational and illogical. The only possible reason for so doing is to save face, for it considers the amendment proposed by Dr Margaret NG hardly acceptable. Though I consider this understandable, it is completely irrational, nor is it in compliance with the principle we consider acceptable.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Constitutional and Mainland Affairs, do you wish to speak?

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Chairman, on the issue of residential address, Members have freely expressed themselves today, presenting every conceivable perspective comprehensively at the legislature, while I have explained to Members during the Second Reading debate the considerations that the Government has taken into account. Hence, I will not waste the time of Members to make repetitions.

However, I would like to pay respect to Members for the enormous efforts they have put in the Voting by Imprisoned Persons Bill (the Bill). Members have not only examined the overall principle in a holistic manner, but have also paid careful attention to the most detailed issue of a residential address. I very much respect the views expressed by Members.

With regard to the Chinese translation problem encountered in drafting the Bill mentioned particularly by Dr Margaret NG, I would like to reiterate one point here. Over the past decade or so, colleagues from the Law Drafting Division of the Department of Justice have managed to make available the Chinese and English texts of some 600 principal ordinances and subsidiary ordinances of the Laws of Hong Kong, and translated the entire set of laws into Chinese laws with enactment text of the law. They have thus gained a lot of experience over the past decade or so. I believe they have listened carefully to the views of Dr NG at meetings of the Bills Committee on the Voting by Imprisoned Person Bill, and I believe they will keep those views for future reference. Regarding the Chinese term we will adopt in future for defining the terms "residence" or "home", I believe a decision will be made after due consideration. However, insofar as the Bill is concerned, the translation provided by colleagues from the Law Drafting Division of the Department of Justice complies with the professional practice they have always adopted.

Thank you, Chairman.

**CHAIRMAN** (in Cantonese): Dr Margaret NG, do you wish to speak again?



**DR MARGARET NG** (in Cantonese): Chairman, I would like to give a brief response to the Secretary's speech made just now. First, it is about the term "家居" (house) in the Chinese text. Chairman, really, I merely gave such views out of my love for the Chinese language. In my view, legislation is part of the system of the State and represents the dignity of the SAR, and we should do a better job. Chairman, I too respect the colleagues in the Law Drafting Division. We know that before 1997, the Government at the time has tried to draft the Chinese version for all the hundred Chapters in the Laws of Hong Kong within a short period. It was no easy task. I did participate in the project at the time. I know full well that those participated in the job did not consider the outcome satisfactory, but we could do nothing about it. More often than not, colleagues of this Council may have come across a certain Chinese text that is really undesirable and needs improvement. Hence, today, I wish the authorities could stop defending blindly the text produced hastily at the time, but make gradual improvement when the opportunity arises in future.

With regard to section 28, when I propose the amendment, I have based on the same conclusion. The Government probably has not given a sincere reply. It indeed feels scared that my amendment would have a far-reaching effect. If I am allowed to amend this section, others may then want to propose amendments for other sections. Fearing that it will bring disappointment if it only accepts my amendment but not those proposed by others, it decides to secure enough votes to vote down my amendment and have the case closed. If that is the case, so be it. President, everyone in this Chamber today hopes that prisoners can soon exercise their right to vote. In this connection, no matter Members like my amendment or not, and no matter Members consider my amendment good enough or not, I have to point out that the amendment proposed by the Government is impracticable, illogical, irrational and extremely undesirable. During the consultation of prisoners conducted by the Government, many prisoners indicated their wish to use the place in which they were held in custody as their addresses. If the Bill is passed today, I hope the Government will spend time in future to make improvement by all means, conduct in-depth study to understand the situation and the preferences of prisoners, and identify ways to improve the situation.

Chairman, I incessantly implore Members to support my amendment. But if colleagues do not support my amendment, I hope that when the opportunity arises in future, they will support improvements on the existing version proposed by the Government. Thank you, Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by Dr Margaret NG be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr IP Kwok-him has claimed a division. The division bell will ring for three minutes.

**CHAIRMAN** (in Cantonese): Will Members please proceed to vote.

**CHAIRMAN** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE, Dr LEUNG Ka-lau and Mr CHEUNG Kwok-che voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted against the amendment.

Ms LI Fung-ying, Mr Paul CHAN, Mr CHAN Kin-por and Mr Paul TSE abstained.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Ms Audrey EU, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi and Mr WONG Yuk-man voted for the amendment.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted against the amendment.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 24 were present, five were in favour of the amendment, 15 against it and four abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 15 were in favour of the amendment and 10 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.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 5 stand part of the Bill.

**CHAIRMAN** (in Cantonese): 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.

**CLERK** (in Cantonese): New clause 1A                      Commencement.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Chairman, I move the Second Reading of the new clause 1A to specify that the enacted Ordinance will come into operation on a day to be appointed by the Secretary for Constitutional and Mainland Affairs by notice published in the Gazette.

With the addition of the relevant clause, the authorities may specify different dates for the commencement of provisions under different Parts. The amendment will on the one hand allow us to implement the election-related provisions in the Voting by Imprisoned Persons Bill and the subsidiary legislation on practical voting arrangements together shortly, so that there will be a consistent and integral legal framework to facilitate prisoners and persons held in custody to exercise their voting right.

On the other hand, since other provisions in the Bill mainly provide for the arrangement on registered address that prisoners who do not have a home in Hong Kong outside the prison may use for the purpose of electors registration, the implementation of such provisions does not have to wait for the amendment of the subsidiary legislation. The addition of the commencement clause can thus enable the early implementation of electors registration arrangement made especially for prisoners. When I moved the Second Reading debate, I said that we planned to first implement these provisions on 3 July.

The Bills Committee on the Voting by Imprisoned Persons Bill has scrutinized and given its support to the addition of the commencement clause to the Bill.

Thank you, Chairman.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clause 1A be read the Second time.

**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: That the new clause 1A be read the Second time. 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.

**CLERK** (in Cantonese): New clause 1A.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Chairman, I move that the new clause 1A be added to the Bill.

*Proposed amendment*

**New Clause 1A (see Annex I)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the new clause 1A be added to the Bill.

**CHAIRMAN** (in Cantonese): I now put the question to you as stated. 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): Bills: Third Reading.

### **VOTING BY IMPRISONED PERSONS BILL**

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, the

Voting by Imprisoned Persons Bill

has passed through Committee stage with amendments. 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 Voting by Imprisoned Persons Bill 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): The Voting by Imprisoned Persons Bill.

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

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Inland Revenue (Amendment) Bill 2009.

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

#### **Resumption of debate on Second Reading which was moved on 13 May 2009**

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

**MR CHAN KAM-LAM** (in Cantonese): President, the Inland Revenue (Amendment) Bill 2009 (the Bill) is related to the government measure to directly benefit the public by offering a tax concession of \$8,000 to them. This will ease

the tax burden borne by many members of the public. This is a pragmatic proposal made in view of the prevailing financial tsunami and the need to tide over the hard times together with the public. It is also in line with the request made by the DAB all along to provide tax relief to the public. For this reason, the DAB supports this Bill and the amendment. We believe the Bill does not involve time-consuming and controversial policy changes and can help the middle class and grassroots in a simple and direct way, so this measure can benefit them as soon as possible and enable them to tide over the adversity presented by the financial tsunami.

At present, the dark clouds of the financial tsunami have not yet dissipated and many middle-class taxpayers are still suffering from the misery of layoffs and pay cuts. Their income has been drastically reduced and the public hope that the Government can provide substantive support to them, so that they can tide over yet another major economic difficulty following the financial turmoil and the SARS outbreak in 2003, so as to get some breathing space. We welcome the offer of tax concessions by the Financial Secretary on two occasions this year, so that the public can have additional cash to spend on consumption, thus stimulating domestic demand and serving to boost the economy.

Although some people hold that the relief measures put forward by the Government on the first occasion were not powerful enough, at that time, no one throughout the world knew for sure if the financial tsunami would last a long time. In the end, in view of the latest situation, the Government boosted the intensity of its measures by increasing the amount of tax concessions, so that more members of the public can be benefited. We consider this a prudent and responsible move in pursuance of the principles of prudent financial management and keeping expenditure within the limits of revenues, so that a balance can be struck between providing relief to the public and ensuring fiscal stability. For this reason, we support the Bill and the amendment.

I so submit.

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

(No Member indicated a wish to speak)



**PRESIDENT** (in Cantonese): I now call upon the Secretary for Financial Services and the Treasury to reply.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, first of all, I thank Members for supporting the resumption of the Second Reading debate on the Inland Revenue (Amendment) Bill 2009, which will enable the Government to implement the relief measures relating to the reduction of salaries tax and tax under personal assessment as announced by the Financial Secretary.

The financial tsunami has impacted on the Hong Kong economy and affected the living of the people. In order to reduce the burden borne by the people, the Financial Secretary proposed in the 2009-2010 Budget a one-off reduction of 50% of salaries tax and tax under personal assessment for the year of assessment 2008-2009, subject to a ceiling of \$6,000.

The Financial Secretary said during the Second Reading debate on the Appropriation Bill 2009 on 22 April that the Government would not hesitate to introduce further appropriate relief measures should the economic situation deteriorate rapidly. Upon reviewing the latest economic indicators, the Financial Secretary announced further relief measures on 26 May 2009. These measures include a proposal to increase the extent of the one-off tax reduction in the Budget from 50% to 100% and to raise the reduction ceiling from \$6,000 to \$8,000. It is estimated that the tax revenue receivable by the Government will be reduced by about \$6.1 billion. All 1.4 million taxpayers of salaries tax and tax under personal assessment will benefit from the reduction. It is estimated that about 835 000 among them will not have to pay any tax at all and about 565 000 taxpayers can have a reduction of \$8,000.

I moved the Second Reading of the Bill at the Council meeting of 13 May 2009 to effect the one-off tax reduction proposed by the Financial Secretary in the 2009-2010 Budget. To reflect the newly increased rate of reduction, later, in response to the views of Members and the general public on the original measures in the Budget, I will move the relevant amendment at the Committee stage. Subject to the passage of the amendment, I will move a consequential amendment to the long title.

In short, having understood and considered the latest economic situation in Hong Kong, the Government hopes that timely and targeted measures can be proposed to relieve the financial pressure borne by the people. I believe this measure can help the general public tide over the present difficulties. I implore Members to support the Bill and the amendment proposed by the Government.

President, I so submit. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Inland Revenue (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.

(Members raised their hands)

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

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

Council went into Committee.

### **Committee Stage**

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

**INLAND REVENUE (AMENDMENT) BILL 2009**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Inland Revenue (Amendment) Bill 2009.

**CLERK** (in Cantonese): Clauses 1 and 2.

**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: That clauses 1 and 2 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.

**CLERK** (in Cantonese): Clause 3.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Chairman, I move the amendment to clause 3 of the Inland Revenue (Amendment) Bill 2009 (the Bill), the contents of which have been set out in the paper circularized to Members.

Clause 3 of the Bill reflects the one-off 50% reduction (originally capped at \$6,000) of salaries tax and tax under personal assessment for the year of assessment 2008-2009 as proposed by the Financial Secretary in the 2009-2010 Budget. Subsequently, on 26 May 2009, the Financial Secretary announced a fresh package of additional relief measures, including a proposal to increase the rate of the said reduction to 100% and to raise the reduction ceiling to \$8,000. Therefore, clause 3 of the Bill has to be amended to implement the latest reduction measures.

I hope Members will support the relevant amendment. Thank you, Chairman.

*Proposed amendment*

**Clause 3 (see Annex II)**

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

**MR ALBERT CHAN** (in Cantonese): Chairman, the League of Social Democrats (LSD) is staunchly opposed to the Government's measure to offer tax concessions and reductions and the taxation arrangement on this occasion.

Chairman, the financial tsunami is making all 7 million people in Hong Kong suffer. The hardships suffered by people with low income or even no income, and by people with the so-called "five noughts", are the severest and the most miserable. However, all the relief measures are only a further transfer of benefit by the Government to the group with higher income, more assets and the greatest financial capability. For this reason, the overall economic and taxation policies of the Government are biased in favour of certain social classes. This taxation policy has assumed the appealing name of easing the hardship of the people but in reality, it shows further favouritism to a group of rich people through the taxation arrangements under the financial tsunami. Chairman, taxation arrangements are a tool for the Government to effect distribution and redistribution of resources by adopting certain public policies and fiscal measures. When the public encounter hardship, it is only reasonable for the

Government to take care of the poorest group experiencing the greatest hardship. However, this time around, it is totally derelict of its duties.

Chairman, the LSD has proposed to the Government a number of times that at this time of the financial tsunami or economic hardship, a more reasonable measure is to distribute an average of \$5,000 to each member of the public. If this is not possible, it can distribute \$3,000 instead. In fact, Chairman, this has been done in Macao for three years. However, the Hong Kong Government is still perverse and clings to a taxation arrangement that favours certain classes. Chairman, this approach makes Hong Kong people — particularly the group caught in hardship — feel extremely outraged. Of course, the Government can say that it has also introduced other measures, including granting an extra month or two of Comprehensive Social Security Assistance (CSSA) payment or waiving the rent of public housing for a couple of months. However, compared with the transfer of benefit made by the Government through taxation arrangements, these measures are really insignificant. For this reason, the actual benefits gleaned by the suffering public from these relief measures are utterly negligible.

What is even more outrageous is that to members of the public with "five noughts", that is, not paying any tax, not living in public housing, not having any property, not having any income, and so on, it can be said that they will get nothing. On the one hand, the Government says that it has to address the financial tsunami and the hardship of the public and offer assistance; and on the other, not a single one of the various measures will help these people with "five noughts". For this reason, public grievances are mounting and this is really the adverse effects of the Government's administrative blunders. Therefore, I must take this opportunity to condemn that person in power who is totally devoid of human nature and who has not taken care of the socially disadvantaged groups in his policies. As the person in high position wielding great powers, he must take into account the hardships facing various social classes in administration and formulating policies, as well as studying in what ways his policies can directly help members of the public in hardship.

Chairman, in the face of the prevailing financial tsunami, many political parties have actively and directly demanded that the Government put in place arrangements for tax reductions and rebates but all along, the LSD has opposed this measure. I hope Members will not preached one thing and practise another. They often condemn the Government's policy as widening the wealth gap and

aggravating the poverty problem in Hong Kong. However, how can they demand that the Government deal with or ease the problem of wealth gap on the one hand but demand that the Government reduce taxes on the other? This really reveals a split personality, Chairman, because offering tax reductions to taxpayers, who constitute a group with higher income and who probably are the top 10% of people with the highest income in Hong Kong, means reducing their responsibility for public expenditure, so this effectively increases their total income. Their income will effectively increase due to the tax reductions, so is this not tantamount to further widening the wealth gap? For this reason, I implore Members, in particular those who demand that the Government narrow the wealth gap, to oppose today's taxation arrangement, in particular, the amendment proposed by the Secretary for Financial Service and the Treasury.

Chairman, in fact, tax reductions will actually further reduce the revenue to the public coffers. If the revenue of the coffers is reduced, naturally, government expenditure will be subjected to constraints. Many Members demand that the Government help people with "five noughts", many members of the public demand that the Government revise the eligibility criteria for CSSA, many members of the public demand that the Government adjust and increase its expenditure on social welfare, many Members demand that the Government implement three years of pre-primary education and many Members also demand that the Government abolish the drug formulary in health care service. Each demand or policy involves the use of public funds. Why can we not channel the money for tax reductions and the waiver of rates to the coffers and use it to improve the CSSA Scheme, health care and education? Members cannot preach one thing and practise another. On the one hand, they want the Government to take these measures but on the other, they are giving the money to tycoons and vested interests.

Chairman, the policy of the Government is biased and this legislature is also a biased one. The composition of this legislature includes the functional constituencies which represent vested interests in Hong Kong. Vested interests include major property developers, the super tycoons and some professionals who receive \$8,000 in consultation fee each month. These vested interests are on friendly terms with the Government and through the so-called relief measures on this occasion, they plan to further secure interests for their respective classes. The interests of these classes will be fully exposed in the voting on this occasion.

If we support the Government in offering the tax reduction, this is to support vested interests in enjoying greater interests as well as greater and more direct financial benefits through the tax reduction on this occasion. For this reason, Chairman, if the Hong Kong public have woken up, they will see clearly that this political system always protects vested interests. Therefore, we must support the early introduction of dual universal suffrage because it is only through universal suffrage can the control of this legislature by vested interests be undone. Otherwise, the Government can say with detachment that this arrangement of tax reduction is proposed by many political parties in the legislature, including those in the pro-democracy camp.

This proposal will exactly serve to further deprive the lower class of the little protection that they can get through the redistribution of public funds and public fiscal policy. Hong Kong is an advanced region and a developed society, but among all the developed regions in the world, it has the greatest wealth gap and it is also the region facing the most serious problem of poverty. The number of poor people in Hong Kong, that is, members of the public living below the poverty line, stands at over 1 million. There are only 7 million people in Hong Kong but in this affluent society and developed region, there are 1 million people who cannot lead a so-called humane way of life due to the resource distribution and taxation arrangements.

Supporting this motion today will only prolong this inhumane way of life. Supporting this motion today will only perpetuate the inhumane and unreasonable distribution of resources. Supporting this motion will only subject the poor in Hong Kong to further exploitation and deny them protection in living. People supporting this motion are in fact developing further split personality disorder because they also support the Government in spending public funds to improve the living of the grassroots and alleviate the problem of wealth gap.

Therefore, I hope Members can fully understand this, and I also make a special appeal to the Hong Kong public: If they have any discontent because of the financial tsunami, they should respond to the call made by us earlier: "Let's take to the streets on July First". Chairman, one of the goals of the 1 July march organized by the Civil Human Rights Front is to target the problem of poverty and wealth gap. This motion today will only widen the wealth gap. For this reason, the rally on 1 July is a good opportunity for the public to express their dissatisfaction with the Government's administration and their discontent with the

Government's measure of tax reduction, particularly with this absurd decision made by the legislature.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): President, the Legislative Council serves several functions, right? Our functions are limited and one of them is to monitor government finance.

What is being discussed today is the Inland Revenue (Amendment) Bill 2009. I wish to talk about the position of the League of Social Democrats (LSD). We agree with the principle of progressive taxation and oppose the regressive model. This Government is impervious to advice and turns a deaf ear to repeated exhortations. We requested that it hand out \$5,000 to each person. This \$5,000 may not have a progressive effect but it will not be so significant as to have a regressive effect either, as the Government claims. As a group supporting socialist democracy, in fact, we are obliged to support distributing money. If this legislature is really formed by universal suffrage, I believe that by virtue of the demographic structure alone, the concept of socialist democracy would prevail in this legislature or an alliance of the majority would be formed together with Members who attach greater importance to justice. Unfortunately, under our existing electoral system, there are 30 seats returned by functional constituencies, that is, the small-circle election that we have inveighed many times.

Let us look at what the Government's argument is. The Government's argument is that they have to help those people. Let us talk about the middle class again. The middle class is being battered by the financial tsunami and some middle-class people have to take no-pay leave, some were sacked and some could not continue to operate their business. How is the Government going to help them? These support measures can only be considered insignificant. Take the rates waiver as an example, a ceiling is set. After saving that sum of money, what is the use of it? If the Government really wants to help the bourgeoisie and those small capitalists who have to bear exorbitant rents, of course, it should effect a rent reduction using the Government's financial levers to force property owners, in particular, large property owners, to reduce their rents, instead of handing out \$2,000 to everyone. Will the Government offer a rates waiver to people who are having a hard time paying rents? It will not.



What kind of government is this? Not only does it often give the appearance of doing something, in the case of the Secretary, he is like a dumbo trying to help the weak, thinking that he is now doing something. This is the art of being an official. Otherwise, if one still has the slightest bit of conscience, one will surely be doomed because one knows that one is wrong. You are now under self-hypnosis, telling yourself that you are saving the people.

One day, I saw John TSANG come out to say something and I really found that laughable. He said that the impact of the financial tsunami had indeed surfaced, so he had no option but to take contingency measures. What was he talking about? He was saying that in January or February, when formulating the budget, he really had no idea that the financial tsunami would sweep here and did not know that there would be an aftermath like that now. What is our Government talking about? Buddy, our Government's comments are political spin-doctoring, that is, it tells you before you die that if you manage to survive, it will give you a bowl of gruel. Even if you cannot take it, the Government will still splash it onto your face.

Members, what kind of people will a rates waiver benefit? This is very obvious. The first thing is the tax reduction. Now, if the Government wants to offer a tax reduction to the public again and if the Government really wants to help those people, it can adopt the proposal that the LSD is obliged to propose, that is, to hand out money to all people regardless. The Government should be able to calculate how much money this will involve and there is no need to argue with us how those people with "three noughts", "five noughts" or "10 noughts" can be identified. Does the Government really want to save people? Why is it always necessary to adopt the trickle-down approach each time it wants to save people by looking at whose funnels are the biggest, then pour the funds into them first of all, so that the funds will trickle down to the next level only after making many twists and turns? Is the Government really trying to save people? Our Gini Coefficient is higher than 0.5 and it is 0.535. Are you not feeling ashamed? What sort of government is this? This Government does not owe any internal or external debt, nor does it have to bear any military expenditure. Even without any tax revenue, the reserve in its possession can last more than 12 months. Secretary, please give me an example. However, such a Government still lets 1 million people live below the poverty line.

Members, ruling and governance require rational thinking. Not only does this Government not take from the superabundance to supplement deficiency, it

even wants to take from deficiency to supplement superabundance. I have talked about this here many times. Chairman, I wonder if you have ever speculated in stocks. You probably have not but the money you keep in the bank may be invested in stocks because banks make investments, so you are also an indirect victim. There is a lot of hubbub in the Hong Kong Stock Exchange, with the share prices going up and down due to speculation. That day, I saw John TSANG and Chairman, you were also there. I asked him if he could raise the stamp duty appropriately, so that those with more than enough can fork out a little money while getting rich and include this in their gambling cost, that is, money should be levied from them, so that those with superabundance can supplement those in want. What do I mean by "in want"? They are those people whom the Government refer to as people with "five noughts", that 1 million poor people in our population and that 500 000 working poor. According to my rough estimation, the stamp duty levied by the Government each year can amount to at least tens of billion dollars.

However, the Secretary is telling us today that we have no money to help those people, that the Government only has a little ammunition. In order to facilitate discussion, I am going to discount the ammunition that the Government keeps in its arsenal for no stated purpose. The Government says that the ammunition there has been kept under lock and key and cannot be used. No matter if it is Grandpa who says that it cannot be used or the rich who say so, can some of it be taken out? Why have we come to such a pass? Why do some people have no money to buy food? Why did some people die from overwork? A CSSA recipient was even struck by double mishap. His son helped him use plastic sheets to cover his abode, but he died of heatstroke. Secretary, I now challenge you to live there for one night. Can you do so?

Why do we always let those people who are so fat as not to be able to pull up their socks say that they still do not have enough? They ask those skinny people, so skinny that they are barely a ghost of a person, to help them in slimming and they cut the flesh of these skinny people to cover their boils. Secretary, do you understand? Do you understand that if you do not implement a progressive tax regime, it will not be possible to introduce systematic reforms? You culled a school in Mui Wo, saying that resources should not be wasted. Have you implemented small-class teaching due to the demographic changes? Do you know that our education expenditure as a share of the GDP is so low that it is the lowest among developed countries and that is why our education has got to such a state? People who need addiction treatment cannot go to any

rehabilitation school; small-class teaching cannot be implemented despite the passage of a long time; teachers are unable to show concern to students and as a result, students take drugs and the measure of two social workers for one school cannot be implemented. Why do you have to help the rich save money? Why do you still talk about addiction treatment? Why do you have to put on the appearance of being kind and well-wishing? However, when we want you to do something, you would not.

My mum only went to school for a few months but still, she told me that it is better to speak with a righteous heart than to be a Buddha. Secretary, I ask you to reply as to why you continue to put money into the pockets of the rich. Why dare you not respond to our criticisms of you? We told you to hand out money but you said you would not. We ask you to implement a progressive tax regime but you would not; we tell you to levy stamp duty but you would not either. In that case, what would you do? Why do you hoard thousands of billions of dollars without using it, then say that you have no money? We tell you to get money from other areas but you would not.

Just consider this: Most of the people who talk about morals, kindness and righteousness in the present regime, including WONG Yan-lung and Donald TSANG, are all believers of God. Do you know about the Gospel of Matthew? In it, one line says, "To serve and not to be served." Do you know that you are civil servants? Do you know what is the foremost principle for civil servants? It is to work for the greatest well-being of the largest number of people. However, you are working for the greatest well-being of a small number of people. Do you know why police officers want to stage a rally? Because the problem is not with scarcity, but with uneven distribution. What we are experiencing now is not so much a problem of scarcity as a question of uneven distribution. Do you know that in sitting here today, you do not have to respond to me and you only have to take your rubber-stamp out and put down a stamp of approval? Why is the situation like this? Because you are exerting your utmost to maintain a singular, ugly and rotten political system, that is, two voting procedures in one legislature. This legislature has 30 Members who did not have to stand for direct election and the Chief Executive was elected by 800 people only.

You people talk about being fair-minded and rational. Today, I just do not bother to throw bananas at you. Even if I am fair-minded, so what? Even

if I behave myself, what then? Will you change your ways? For this reason, it is useless to be reasonable in this legislature. I told you to save the victims of the Lehman Brothers minibond incident, but it has taken you such a long time to do so. Joseph YAM receives an unprecedented annual pay and he said that only 70% of the cases could be investigated by March next year. We may as well tell him to go to hell. Is this not a waste of public funds? I just do not bother to appeal to people to take to the streets on 1 July but in fact, I have already done so.

(Laughter came from amongst Members)

Ladies and gentlemen, if you can stand all these, you do not have to take to the streets. You may as well wait for dumbo to help the weak, wait for these people to come out and speak abusive language and wait for these people to be cannibalistic instead of vegetarian. For this reason, I do not call on you to take to the streets. However, if you cannot stand this anymore, you have to remember to join the rally. See you on 1 July.

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

**MR RONNY TONG** (in Cantonese): Chairman, originally, I did not intend to speak but after hearing the very impassioned speech delivered by "Long Hair", I also wish to make some comments.

Chairman, first, I want to state that I agree with the great majority of the views aired by "Long Hair"; in particular, I agree with his strong condemnation of the Government.

Chairman, I have served as a Member for five years and from the first day I joined the Legislative Council, I have been very concerned about the efforts to help the poor. Today, when sitting here, I asked myself, "If we vote down this Bill, what would be the consequence?" The consequence would be one of all people getting nothing in the end. Will the Government be roused from its slumber due to the voting down of this Bill and listen to the demand made by us persistently in the past five years, that it takes care of the neediest group in Hong Kong? It probably will not. Chairman, if 500 000 people were to take to the streets as in 2003, this would perhaps have a little effect. However, I definitely

think that such an effect cannot be achieved just by voting down a Bill in the Legislative Council.

Chairman, in fact, regarding such a measure, we already made it clear when the budget was announced that it should not be implemented. Although we did not employ any word of condemnation, we still voiced strong opposition and proposed many measures that we believe should be adopted by the Government to take care of the welfare of the lower class. However, it is a shame that the Government often turns a blind eye and a deaf ear to such proposals. However, Chairman, if we vote down this clause, will we fall into the trap set by the Government? In the course of so many years and since the reunification, I find that the Government is most adept at adopting the political tactics for which the communists are renowned as masters — pleasing one group and suppressing the other. The political tactic at which the Government is most adept is to intensify social contradictions and the struggles among various strata. I believe this is what the Government wishes to see the most. Otherwise, why is the Government so indifferent to the demands of the needy in Hong Kong society, only preoccupied with returning the common wealth of society to people who are relatively speaking not so needy?

However, if we vote down this Bill today, will the consequence be exactly that which the Government probably wants to see, that is, the lower class being at odds with the middle class? It is true that tax reductions and rates waivers will benefit many well-off people. Chairman, I absolutely agree with this and it is also for this reason that I want to condemn the Government. Although these sums of money can be described as "paltry" to the rich and the tycoons in Hong Kong and they may even complain that the "small change" is too little, there is also a group of middle-class people who need government help to ease the financial difficulties caused by the present financial tsunami. Although the money involved is not much, when they are in need, such "timely rain" can still help them for a while, so do we have to sacrifice their interests too? Chairman, I think this is a dilemma and I have also had a mental struggle over this for a long time. Ultimately, I think that we should help as much as we can instead of adopting the attitude of bringing about a "lost-lost situation" and make everyone lose out. No matter how wrong this Bill is and no matter how it is at odds with the demands or political beliefs of many people, it still has at least two merits. For one thing, as I said just now, it can ease the financial difficulties confronting the middle class as a result of the financial tsunami, and for another, it is possible

that it may slightly stimulate our economy and hopefully, this can help take us out of the trough. For this reason, no matter how minor the measures are or how small the efforts are, so long as they can improve our present economic situation, I think we should not let slip of them easily.

Chairman, finally, I still agree very much with the comments made by Mr LEUNG Kwok-hung and I also fully concur with him that this Government deserves our strong condemnation because this Bill may widen the wealth gap in Hong Kong. However, as I said when discussing the issue of the voting rights of prisoners, this is to choose the lesser evil and my reasoning tells me ..... sorry, Dr Margaret NG always consider my Chinese to be poor and maybe I have put it in the wrong way. What I mean is that when two things are both unacceptable, we hope that the proposal doing the least harm can be identified, so as to counterbalance or keep a lid on the contradictions and confrontations among various social strata for the time being.

Chairman, with great reluctance, I will support the Government's motion but I think I must stand up to express my agreement with the condemnations of the Government made by Mr LEUNG Kwok-hung. I also consider it necessary for the Government to strive to do some hard soul-searching after today. I also hope that Hong Kong people will demonstrate enough power on 1 July to remind our Government that it has to strive to change Hong Kong society's overall perception of it. Thank you, Chairman.

**MR WONG YUK-MAN** (in Cantonese): Chairman, Mr LEUNG Kwok-hung of our political party was filled with righteous indignation just now. In fact, he simply wanted to state some basic beliefs which have all along been advocated by the League of Social Democrats (LSD). A dream, after all, is very far away, but the reality is awfully cruel. However, the actual situation is, a dream can also be very close.

Hong Kong can be regarded as one of the wealthiest places in Asia. The per capita income of Hong Kong people is as high as US\$30,000. Surprisingly, we have 1 million poor people and hundreds of thousands of low-income workers here. The Government simply takes these so-called relief measures. As also mentioned by Mr LEUNG Kwok-hung just now, the problem is not with scarcity but with uneven distribution. It is hard to require a government, which

advocates capitalism and free market and takes them as its ultimate values, to have a more even distribution of resources in this society. We all understand this point. It is because, as stipulated in the Basic Law, the capitalist system will remain unchanged for 50 years. Even capitalism, particularly neo-liberalism, it seems that it has collapsed completely nowadays. Many governments have to make a fresh start and borrow lessons from socialism.

However, as we all know, any ideal or doctrine for solving economic problems should be tested by the reality. When the labour party falls short of people's expectations, it is natural for people to turn to vote for the rightist conservative party. When the rightist government is ineffective, people can make use of their votes to select a leftist government, which imposes heavy taxes especially on the rich and implements a progressive tax regime, to come into power. This is inevitable as people have choice. However, in Hong Kong, we have no choice at all. This is absolutely a high-handed government, whose power comes from Beijing. The most paradoxical thing is that its sovereign state — the Central Government — implements socialism, whilst the Hong Kong Special Administrative Region (HKSAR) implements capitalism. They uphold strict adherence to proletarian dictatorship, socialism, Marxism-Leninism Maxism, Mao Zedong's Thought and leadership of the Chinese Communist Party. In fact, there is only one cardinal principle and that is, one-party dictatorship. In the Mainland, no one knows where socialism has gone.

Nevertheless, it also knows that there are problems. It therefore keeps on making efforts by all means on some policies where regulation and interference by the government is possible. The nature of socialism to which it upholds strict adherence has changed. However, it knows that social unrest will arise in case there is the so-called injustice or uneven distribution of wealth in society. Even such a high-handed government, which stipulates the implementation of socialism in its constitution and regards it as an infallible guiding principle, knows how to respond and make changes when encountering difficulties. However, the HKSAR Government fails to do so. When asked to hand out money, you just brush aside our request. When asked to refund immediately \$6,000 of the Mandatory Provident Fund contributions to the public, you just insist that they can only get back their money at the age of 65. They may not be able to live to 65 to get back their money. The sum of \$9 billion has already been earmarked, but you are impervious to our advice. Even though some feasible proposals

have been raised, you are still reluctant to put them in place. You may of course have your own principles, but they have become outdated in real life.

As far as I remember, when the Chief Secretary was in this Chamber last time, I mentioned that I had visited some residents who were living in cubicles in Sham Shui Po. These people have not applied for CSSA, and they are not eligible for public rental housing. All relief measures offered by the Government will not benefit them, and this is a fact. Anyway, the Government has earmarked an extra sum of \$16.8 billion for tax concession and rates waiver. And the most ridiculous one is waiving business registration fees for one year. But some people who rent shops in Mong Kok have to pay a monthly rental of \$300,000. Does it help by waiving their business registration fees for a year? Just tell me, does it help at all? Some people may say that it is not without some minor benefit. But what is the benefit being offered now? Only waiving the business registration fee of some \$2,000 does not help much. Many shops are prepared to fold. How can they have any business, right?

Once identified an influenza patient that day, the authorities seemed to have gone crazy and overreacted. There are already more than 400 confirmed cases now. Having discovered the first confirmed case, we isolated those people in a hotel for seven days. If we still adhere to this standard, we cannot go everywhere freely now. This is precisely overreaction. Do you know such an approach will worsen the market situation? Once again, this government should be blamed. Why do you often handle some matters in this way? They seem to be well-intentioned measures meant good for the public. But at the end, you simply put yourselves in trouble, causing more serious public grievances.

As for the Amendment Bill on taxation we are now discussing, the LSD has a very clear stance, and that is, not to bother about it. I do not mean that as this Bill will be passed definitely, we have to object to it. But in principle and based on our fundamental beliefs, we still have to object to it. As I have 10-odd minutes to speak, let me read out a paragraph of the LSD's political platform to Members. I have given it as a present to you to take a look. But you have not read it at all. In the foreword of the political platform, there is a paragraph entitled "economic and social reforms": "The ideology of capitalism stresses that people should have equal opportunities and uses this to rationalize inaction by the Government to interfere in the market or provide any social welfare. The mainstream in society has all along been in opposition to 'free lunch'. We are



reluctant to provide social support for those poor able-bodied but force them to be self-reliant. However, society should provide each of its people with opportunities for self-help and development. As for those people whose social conditions are not so favourable, it is necessary to provide them with basic assistance that can maintain their dignity."

There is another paragraph on the tax regime (as we are talking about the tax regime today). In page 94 of our political platform — this is supposed to be a book. Secretary, do you have this book? It is a whole book. I have given it as a present to the Chief Executive and the Chief Secretary, but they have not read it at all — it is stated in paragraph 3.6 concerning reform on the tax regime: "Hong Kong has all along been maintaining a simple and low tax regime. Since the 1990s, due to social demands, coupled with the increasing expenditures of governmental departments, the Government sold lands through the high land price policy to cope with the increasing expenditures, so as to maintain a low tax rate. However, the high land price policy has brought a lot of sequelae. First of all, many people have to use a large proportion of their income to repay mortgages and their living quality is thus affected. Moreover, economic development has put too much emphasis on real estate and financial industries, giving rise to a 'bubble economy'. On the other hand, although Hong Kong adopts the policy of low tax rate, the Government has a huge reserve, being sufficient to meet public expenditure for three years, which far exceeds the level of international standard. Worse still, the Government simply ignores the need of promoting economic development and narrowing the prevailing wealth gap. Although it is imperative for the Government to maintain fiscal balance, it should play its fiscal role, making the allocation and redistribution of resources, narrowing the wealth gap and promoting economic growth its goals. As such, during an economic downturn, the Government should not insist on maintaining a fiscal balance for a certain financial year. Rather, it should take a period of three to five financial years as an indicator of such balance, and relieve the public's burden and create more employment opportunities by adjusting tax revenue and public expenditure, so as to help those with financial difficulties and avoid intensifying the economic downturn to form a vicious cycle.

"The tax regime in Hong Kong should be reformed fundamentally and other types of tax should be introduced gradually to replace the direction which is led by land sale. The overall tax regime should be progressive in nature, with a view to redistributing wealth. At present, direct tax only accounts for one third

of the tax revenue, resulting in ineffective functioning of the redistribution role of tax revenue in Hong Kong."

Mr LEUNG Kwok-hung has mentioned just now that the Government should impose heavier taxes on the rich, such as stamp duty or other taxes. All in all, heavier taxes should be imposed on those high-income earners. This is what Dr SUN Yat-sen said in those days. What is his philosophy of serving the people? That is, if you are only able to serve yourself, just serve yourself. But some of us may have the capability to serve many people. He should then serve many people. KENNEDY also had a famous saying, in this effect, if we cannot help the many who are poor, you cannot save the few who are rich. This saying is self-explanatory. We are not going to share the wealth of the rich now. But they are rich because of the efforts made by other people in society, buddy. If you purchase a land for developing real estate and make huge profits, do you think this is due to your wisdom or the fact that you have the capital? In fact, it is merely the efforts made by the whole community. Therefore, Dr SUN Yat-sen's dream in those days (though it could not be realized) was that there should be equalization of land rights and any increase in value should be returned to the people. Have you ever heard of this?

Dr SUN Yat-sen was a typical socialist. However, he also talked about democracy, thinking that the core of socialism should be democracy. Therefore, he was a socialist democrat. His Principles of People's Livelihood is the best incarnation of socialism. He advocated that "equalization of land rights, regulation of private capitals". Based on these eight words, the connotation of his Principles of People's Livelihood is that there should be equalization of land rights and regulation of private capitals. As for allocation of lands, if there is any rise in value, that is, if the land price or property price has increased, the profits should be returned to people. It does not mean that if I have purchased a land at \$1 million and made a profit of \$10 million after building flats, I have to return the total amount of \$10 million to people. If so, what can I earn? The meaning, of course, just focuses on tax revenue. We should impose heavy tax on the amount of money earned.

It is really a waste of efforts to discuss with you these things. Secretary, you are a neo-liberalist, an academic from the Chicago school of economics. All my comments are definitely not pleasing to your ears. However, I still have to say that as this is related to the LSD, I of course have to use these 10-odd

minutes to "hard sell" ourselves today. Please do not think that we have no idealism. Only that most of these ideals cannot be realized in Hong Kong, right? However, what I mean by them being unable to realize is that under the overall objective environment and such a subjective system, how on earth can they be realized? We should not have any false hope in our whole life. Therefore, we, with such ideas and opinions in mind, are determined to protect the interests of the grassroots and vulnerable groups, so that they can enjoy equality and justice. As such, if fate has it that one has to become a beggar, he will be a member of the "beggar gang" for his whole life, and it is impossible for him to climb higher from being a member of the "beggar gang" to that of the Liberal Party or Economic Synergy. Such an argument is a complete non sequitur and should in no way hold water. Let me tell you. If our situation is really like this, we are not qualified to be human beings.

What the Government has implemented now is only a transient solution. Moreover, the Government has shown a kind of attitude that "I have taken some relief measures by allocating an extra amount of \$16.8 billion. What else do you want?" But we consider it inappropriate for this sum of \$16.8 billion to be used in this way. As mentioned just now, the problem is not with scarcity but with uneven distribution. What kind of people are you going to save? Just tell me. This sum of \$16.8 billion includes tax concession. Can all of us get tax concessions? Even so, some of us can get a few hundred dollars only. This is the so-called tax concession. As for those with higher incomes, what is the cap? The amount is even less than \$10,000. Does it really help? Some people say that it is not without benefit, at least better than nothing. What do you mean by better than nothing? I would rather not receive it, right? What do you mean by better than nothing? This is not better than nothing. In fact, the money should not be given away in this way.

We pay tax to the Government and the Treasury has huge reserves. At present, the fiscal reserves, together with the Exchange Fund, have accumulated to more than \$1,000 billion. What is it for? Shall we keep the money for no reason at all? Why can the Government not hand out part of it to the public? Is it really difficult for it to hand out just a few thousand dollars to each of us? Please take a look at Edmund HO. He has handed out money twice and stepped down with honour. In line with this trend, CHUI Sai-on will also hand out money upon assumption of office. They have an intention to embarrass you. Once our Government released the budget, he handed out money. Very probably, Donald TSANG has offended Edmund HO. Otherwise, why did he do

the same thing each time? Just tell us. We had requested the Government to hand out money before Edmund HO did. The LSD had staged a petition at the Government Secretariat long time ago. At the outset, we requested the Government to hand out \$5,000 to each of us. However, the Government simply dismissed us as "idiots", saying that the three of us were "stupid guys" and fools. How on earth could it hand out money? Three "stupid guys", being followed by a few youngsters, held a banner and marched to the Government Secretariat. How lonely we were! Some people even thought that we were insane. Soon after that, Edmund HO handed out money. He was even more foolish than us. Well, noting that Edmund HO had handed out money, we took this excellent opportunity and requested the Government to do so. But once again, it simply dismissed us as fools. As a result, the one who is really stupid is you, right?

As for this Bill today, the LSD will vote against it. Thank you, Chairman.

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

**MR WONG KWOK-HING** (in Cantonese): Chairman, the Hong Kong Federation of Trade Unions (FTU) supports this Bill introduced by the Government. Given the existing economic environment, with the blow dealt by the financial tsunami and the impact brought about by influenza A, the general public is now in a relatively difficult situation. Therefore, in the debate on the Government's budget, we strongly urged for government "handouts" to show sympathy for the present plight faced by the general public, rather than just giving out candies, so as to offer them some assistance. During the discussion on the budget, the FTU had met with the Financial Secretary and raised 14 proposals, hoping that the Government could earmark \$29.7 billion for taking various measures to assist people from different walks of life, especially the grassroots, to tide over their difficulties.

It is proposed now in this Bill that the amount of tax concession be increased by \$2,000. This is part of the whole set of relief measures put forth by the Government, which has also responded to some of the 14 proposals and the request of \$29.7 billion proposed by the FTU. Although we are not fully satisfied with it, we welcome it. The relief measures of \$16.8 billion proposed

by the Government now as a whole include: paying rents for tenants of public rental housing for two months and the so-called "well-off tenants" (that is, those who have to pay double rent and 1.5 times rent) can also be benefited; providing an additional one-month allowance for those who are receiving the "fruit grant", Comprehensive Social Security Assistance (CSSA) and disability allowance (that is the so-called "double-pay"); and waving rentals for tenants of municipal markets under the Government for three months. Moreover, as for rates and licence fees, the Government has also put forth a lot of relief measures. I think the Government has considered the FTU's request seriously. Although it has not fully responded to all our requests, on behalf of wage earners, we support the Government to take an "enhanced" measure on tax concession.

We find it strange to see that some people and political parties have all along been opposing and adopting an attitude of elevating the issue to a higher political plane. This can neither strive for anything nor help the public, and logically speaking, it is also confusing. However, it does not matter as this Chamber is the epitome of a free society, in which anyone can express his own views. As for this Bill proposed by the Government, the FTU hopes that it can be passed as soon as possible. Regarding this "enhanced" relief measure introduced by the Government, we consider that there is still room for improvement on the part of the Government. For example, we strongly urge for the cross-district transport subsidy, but the Government has advised that it will not conduct a review until July. However, the deadline of applying for this subsidy is approaching by the end of this month. Recipients can only obtain around \$5,000 after July. What can they do without the transport subsidy? I hope the Government can submit the review result immediately and improve the situation of those wage earners who are living in new towns in remote districts as soon as possible. If no improvement can be made expeditiously, should they continue to take up low-pay jobs, or quit their jobs and resort to CSSA? Does the Government want to see more and more people apply for CSSA? This is the first question I strongly urge the Government to consider.

Secondly, there are still a lot of problems with the existing public assistance system, which is not perfect at all. A lot of people who have genuine needs cannot get any assistance. Therefore, I sincerely hope that the Government can review the existing CSSA system, so that this "safety net" can genuinely help those people who are caught in the plight and have difficulties in maintaining their living.

Thirdly, I hope the Government can consider the establishment of an emergency unemployment relief fund strongly requested by the FTU. Being different from CSSA, the emergency unemployment relief fund is specially designed for offering assistance and providing another way out for those short-term unemployed who are not eligible for CSSA. I hope the Government can seriously and earnestly consider our proposal.

Fourthly .....

**CHAIRMAN** (in Cantonese): Mr WONG Kwok-hing, I hope you should bear in mind that the Committee is now examining the amendment to clause 3 of the Bill.

**MR WONG KWOK-HING** (in Cantonese): Chairman, what I am talking about is exactly related to this amendment. I urge the Government to make overall consideration. Please kindly allow me to raise my last proposal.

**CHAIRMAN** (in Cantonese): It would have been more appropriate for you to raise it during the resumption of debate on Second Reading. Please be concise now.

**MR WONG KWOK-HING** (in Cantonese): Chairman, I think you have not rectified speeches made by other Members.

**CHAIRMAN** (in Cantonese): Mr WONG Kwok-hing, I have paid much attention to speeches made by other Members. What they have said is to explain their reasons for objecting to this amendment.

**MR WONG KWOK-HING** (in Cantonese): Chairman, I am trying to explain why I support the Government's motion. I would like to add a few words here that I hope the Government can consider the last item, that is, to provide a way out for those small business operators. Let me cite an example here. The Government has issued 61 new licences for ice cream vendors recently, but 3 710

people have submitted applications. This reveals the difficulties in running businesses for a living. Therefore, apart from this Bill today, I hope the Government can take the whole situation into account, putting in more efforts and taking more measures to help the grassroots. Thank you, Chairman.

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

(Mr Albert CHAN raised his hand)

**CHAIRMAN** (in Cantonese): Mr Albert CHAN, you may speak for the second time.

**MR ALBERT CHAN** (in Cantonese): Chairman, speeches made by the three Members belonging to the LSD just now have basically expressed the stance and opinions of the LSD. However, I have just heard Mr WONG Kwok-hing's criticism outside the Chamber, that our logic is confusing. It is definitely not the LSD which has confusing logic. The LSD has all along upheld consistent views logically and theoretically in respect of economic policies, taxation policies and various issues. Chairman, as I said in my speech, some political parties and Members in this Chamber are suffering from schizophrenia with dissociated character and personality.

**CHAIRMAN** (in Cantonese): Mr Albert CHAN, please do not repeat what you have mentioned by all means.

**MR ALBERT CHAN** (in Cantonese): Chairman, I just want to explain what our logic and theoretical basis are.

(Mr WONG Kwok-hing rose)

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

**MR ALBERT CHAN** (in Cantonese): Please sit down. I am speaking.

**CHAIRMAN** (in Cantonese): Mr Albert CHAN, please hold on. Mr WONG Kwok-hing, do you have any question?

**MR WONG KWOK-HING** (in Cantonese): Point of order.

**CHAIRMAN** (in Cantonese): Please raise it.

**MR WONG KWOK-HING** (in Cantonese): I would like the Member who is now speaking to clarify, when did I mention these three letters "LSD"?

**CHAIRMAN** (in Cantonese): Mr WONG Kwok-hing, this is not a point of order.

**MR ALBERT CHAN** (in Cantonese): It is not a point of order. If you do not know, you had better not to speak. Chairman, this Chamber is very preposterous. Some Members have been in office for many years, but they still do not know what a point of order is.

**CHAIRMAN** (in Cantonese): Honourable Members, please observe the Rules of Procedure.

**MR ALBERT CHAN** (in Cantonese): If he does not know what a point of order is, he had better not act as a Member and talk nonsense in this Chamber.

(Mr WONG Yuk-man interrupted)

**CHAIRMAN** (in Cantonese): Mr WONG Yuk-man, it is not your turn to speak now.



**MR ALBERT CHAN** (in Cantonese): Chairman, I just want to explain what the logic is. Many Honourable Members even do not know the "ABCs" in politics or logic. Chairman, fortunately, I majored in politics and minored in philosophy with my first degree. I therefore know something about logic as I have studied it for several years.

Why did I criticize some people for suffering from schizophrenia with dissociated personality? It is because insofar as public administration is concerned, especially the financial arrangement on taxation, continuity and consistency of policies are of the utmost importance. These people, on the one hand, request the Government to provide tax rebates. But they propose the Government to allocate money for provision of certain services on the other. Where does the money come from? When the Government has no money, it cannot provide certain public services, right? At the end, these people obtain all benefits but refuse to shoulder the responsibilities. This is not schizophrenia, not .....

**CHAIRMAN** (in Cantonese): Mr Albert CHAN, you are repeating what you have already said.

**MR ALBERT CHAN** (in Cantonese): Chairman, this is not an absolute repetition. It is just an interpretation to further elaborate the argument in a certain aspect, which is not a repetition of that argument. Chairman, I just want to further elaborate that there should be a conceptual base for the basic principles of financial allocation, just like a Member had been criticized by a professor for advancing a straw argument. In fact, some people are also playing with straw arguments now. When doing so, they think they have got something. It seems that they have fulfilled their social responsibilities. If the Government cannot allocate its money reasonably or some vulnerable groups are being discriminated in such process, this will be completely turning a blind eye to social justice. Therefore, Chairman, I further take this opportunity to condemn those Members who are suffering from schizophrenia with dissociated personality and political stance. They simply allocate money unreasonably to further sacrifice and exploit the rights of the ordinary public.

(Mr LEUNG Kwok-hung rushed into the Chamber and raised his hand to indicate his wish to speak)

**CHAIRMAN** (in Cantonese): Mr LEUNG Kwok-hung, you may speak for the second time.

**MR LEUNG KWOK-HUNG** (in Cantonese): Chairman, I certainly understand that the Government's policy on tax rebate will be, to some people, not without some benefit. But what are we discussing now? It is about the overall policy, that the Government should adopt an attitude that a person who is genuine in rescuing the lives of others never gives up any person. If this Bill is negated today, what is the duty of the Government? It should be responsible for making an amendment in accordance with public opinions expressed by this Council. If it does not know this point or other people do not know it, either, there does not exist the so-called parliamentary politics in this world, right? In fact, if it is a genuine parliament which adopts the British system, ministers should be returned by direct elections. If proposals raised by them are negated, even if they need not fall from power in the parliament, they have to do so in their political parties. I have mentioned this point so many times. Take Mrs Margaret THATCHER, the so-called Iron Lady, as an example. Everyone said that she would not be replaced. But eventually, she was replaced because of the introduction of "poll tax" as it had caused indignation and discontent among the public. She thought that in introducing this tax, she could counteract those councillors who had criticized her. However, she was doomed at the end.

**CHAIRMAN** (in Cantonese): Mr LEUNG Kwok-hung, as the Committee is now examining the amendment to clause 3 of the Bill, and you are speaking for the second time, please speak to the question by all means.

**MR LEUNG KWOK-HUNG** (in Cantonese): I know, Chairman. Thanks for the advice. This is a debate. Many people are worried that if this Bill is not passed, we would end up getting nothing. In other words, if this Bill is not passed, the consequence will be very serious. What I want to explain is that the consequence may not be so serious. This is part of my strategy to win electors' support. If you stop me from doing so, resulting that I lose those electors' support, it will be a big deal ..... I have the people's mandate to speak in this Council from my conscience and knowledge, so as to enable it to make the most

sensible judgments and decisions through discussions, taking into account public interests. This is the way of this Council.

**CHAIRMAN** (in Cantonese): I have to remind you that we are now examining the amendment to clause 3.

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

**CHAIRMAN** (in Cantonese): Please speak to the question.

**MR LEUNG KWOK-HUNG** (in Cantonese): My explanation on tax rebates is as follows. If this proposal is not passed, many people will not get tax rebates. Those who will be benefited because of the existing measure on tax rebates may get nothing. However, what I mean is that even without this measure, the Government can also come up with other alternatives, such as designing it afresh. If a tailor-made wardrobe cannot fit in, we can cut away part of it and fit it in again. There is no reason for us to throw the wardrobe away, right? I am in fact answering a question. If by any chance the League of Social Democrats (LSD) can get support from the public and no tax rebates will be provided as a result, those who are longing for benefits from tax rebates need not worry, as the Government still has an "emergency exit". Even if we have gone outside through it, we can still come in again through the main entrance. That is, we can amend the Bill and get it passed again.

Therefore, what I am explaining is that there is no need for us to be scared. In this world, even if the Government's policy is not passed, the sky will not fall down. Unless the Government is irresponsible, indicating that there will be nothing if it is not passed. However, this will never happen. Chairman, you have been a Member of the Executive Council. The Government will not rule in this way. It will not say that as "Long Hair" has negated its motion, it had better drop it. This is impossible. If the Government adopts an attitude that a person who is genuine in rescuing the lives of others never gives up any person, it should consider it infeasible. Although "Long Hair" is detestable, the

Government is lovable itself. It will definitely hand out money again in other ways very soon.

So, what I am talking about is that many Members have criticized the LSD indirectly for being irresponsible, alleging that if this Bill is not passed, we may amount to doing a disservice out of good intentions. However, this is not the case. We cannot play such a role with good intentions. Being restricted by this constitutional system, we can only tell the Government that it is not feasible. If this is not feasible, the Government can start it all over again. Just like God, having created a man, it then discovered that it was not feasible if there was no woman. God then took a rib from the man and created a woman. God also forged ahead in doing what was right.

For this reason, all governments, even if they are omnipotent, after listening to the views of the opposition, though they are very limited, what should it do once the Bill is passed? It should cherish such views with respect as the public view reflected by this Council is the only public view, which is formed by elections. So, what I am explaining is this theory.

As for the example of Mrs Margaret THATCHER, in this world, there does not exist ..... Even though people believed that Margaret THATCHER could not be replaced, when her tax was negated because of the riot broken out on the streets, the Conservative Party imposed sanction on her. Originally, Margaret THATCHER thought that such tax was feasible, but it turned out to be infeasible. She then changed and adopted some good policies. If what I propose is a good policy whilst what the Government implements is a bad one, its policy will be negated today. That is to say, we have opened a door to let a good policy come in. I have explained for such a long time. If you do not speak, I have nothing to add.

Let me come back to the question. What is our advocacy? We advocate adopting a progressive method as remedy. What does it mean? In any of our social reform or redistribution of resources, those in the worst situation should get the most. It is the same if calculated in terms of percentage. For example, our Government is prepared to hand out \$100 billion. The grassroots should get \$70 billion as they were not treated fairly in the first round of distribution. According to what Mr WONG Yuk-man has said, that is, the LSD's political platform, those suffered from the high land price and high rental policies can in fact be benefited in other aspects. The Government can make adjustments

through interests or other methods. How come this Council has such a narrow vision? This is what I have to say.

This is our idea. I have already mentioned it. Although I opine that handing out \$5,000 is not a right move, there is no other alternative. As you are not willing to benefit the grassroots, we cannot help going a little bit against the progressive principle as we have to rescue those people first. In fact, we are really kind-hearted. Our principle has also been revised as I do witness that people living in my estate are full of grievances and complaints. Frankly speaking, Chairman, many people, who are homeless, have rung me up, wondering why they cannot get what have already been passed in this Council. As for the two months, does it refer to August and September or July and August? Those people are really in great distress. If we still adopt such an attitude today and hand out money according to the ratio distorted by this Council, that is, the rich will get a bigger share and be benefited, firstly, people who are in great distress will get some benefits but cannot free themselves from distress, and secondly, the disparity between the rich and the poor will be widened with such an uneven distribution.

I have evidence to support my arguments, Chairman. Let me talk about the principle of taxation now. One should use his brain to direct his limbs, not the buttocks. If even the brain is not clear, one will become ZHOU Botong or OUYANG Feng<sup>1</sup>. OUYANG Feng acted against the public's wishes as he had crooked ideas. But the Government should not have any crooked ideas. If Chief Executive Donald TSANG's governance really pursues progressive development, it should enable the grassroots to have a living with basic protection and dignity, obtain our resources and enjoy wealth redistribution. What I mean is not that \$500 only. Rather, they should get resources in this society, so that their potential can be developed.

Let me cite an example. For those students who have no money to use the Internet, if this Government can uphold the principle of taking from the excessive and giving to the deficient, understand their need and seek money from the rich, they may be able to use computers when they are young, so that the disparity

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<sup>1</sup> ZHOU Botong (周伯通) and OUYANG Feng (歐陽鋒) are two fictional characters from Wuxia novels entitled *The Legend of the Condor Heroes* (《射鵰英雄傳》) and *The Return of the Condor Heroes* (神鵰俠侶) by JIN Yong (金庸).

between the rich and the poor will not become so wide. What are we talking about? We are talking about governance. We are talking about eradication of poverty .....

**CHAIRMAN** (in Cantonese): Please do not repeat the points you have already covered.

**MR LEUNG KWOK-HUNG** (in Cantonese): In that case, I will not repeat them here. Chairman, I do not think that I am repeating at all. Each of my sentences is also ....., You may find that I seldom use the same wordings or examples in my speeches. I just keep on expounding that concept now. If you have to ..... that is a geometric question. You have studied Mathematics and should have it "QED" as soon as possible. There is no other alternative.

I know the Chairman thinks that I am repeating what I have mentioned. However, as for a deaf or someone whose ears do not function well — it is of course improper to speak loudly to him on other occasions. However, as for someone whose ears do not function well, it is proper to say "Hi" loudly to him, right? As for this apathetic government, such a practice is correct. It is wrong to apply acupuncture for no reason. But for those apathetic people, applying acupuncture can stimulate their hands, feet and brains again.

Therefore, I will not argue with you. I just want to reiterate one point. All those people who have attacked or misunderstood the LSD today have done so due to an ugly or a beautiful misunderstanding. You can choose any one of them. Regarding welfare for the grassroots, we have never ....., As for the middle class who have suffered because of the financial tsunami, we always remember their difficulties. What we have to say is that the Government should make a fresh start and do something good for them. Our wealth distribution and resource redistribution should be focused on 1 million poor people and 500 000 workers in poverty. For example, as for those measures such as transport subsidy which cannot be implemented due to lack of money, we should allocate resources and put them in place. Therefore, the viewpoints put forth by the three of us, no matter being expressed softly or loudly, are aimed at enabling Honourable colleagues not to have any misunderstanding or be sacred. Let me say this once again. When any proposal raised by a government in a parliament is opposed by the public view, the government should conduct some

self-examination, rather than querying why the parliament hinders its work. Otherwise, why should there be separation of powers, right? Honourable Members, I just want to talk about the basic principle of politics, and there is no need for you to be so panic and take it to heart.

Chairman, I know you are running out of patience. This geometric question has been proved and "QED". Full stop.

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

(Mr WONG Yuk-man raised his hand)

**CHAIRMAN** (in Cantonese): Mr WONG Yuk-man, this is the second time that you speak. Please do not repeat the points you have already covered.

**MR WONG YUK-MAN** (in Cantonese): I seldom repeat myself, do I? I have a lot to say. When hosting a programme, I can talk alone for one and a half hours, so how possibly can I be repetitive? Chairman, we are the opposition. For the opposition, particularly for a political party like ours, it will never have the chance to become the ruling party. We will be the opposition forever.

Some people say that we oppose for the sake of opposing. Members, do you mean that instead, I should oppose for the sake of supporting? This is not really so very difficult to understand. Right here before our eyes, there are some people who oppose for the sake of supporting or who support for the sake of opposing. They would say a heap of things first, saying that they are against something, that they oppose the Government's measure as it would not work. However, in the end, they would say they would lend their support and would even say that they would oppose such a measure next time. What are the beliefs of these people? What are their principles? If we want to do some reckoning, it would really take a lot of time but I just do not bother to settle the scores with them. To put it more vulgarly, this is "he who makes the provocation is lowly and should not complain even if he is beaten to death", right? I did not make any provocation, so you should not provoke me either, should you? If you want to talk about logic with me, Chairman, since you have also studied Mathematics

before, you surely know logic well. From my observation over the years, I always think that, as a Legislative Council Member, Mr Jasper TSANG's rhetorical skills are fine and he also has clear logical thinking.

**CHAIRMAN** (in Cantonese): Please speak to the question.

**MR WONG YUK-MAN** (in Cantonese): Even when advancing specious views, you can use your rhetorical skills to handle your arguments. This is someone who has received strict training in logic. I am also someone who has received strict training in logic. We will not become confused in our logical thinking, will we? However, sometimes, for strategic or tactical reasons, we may also give the impression that we are succumbing to emotions but we have good grounds for doing so. We have always been the same and we have all along been consistent, have we not?

Given the situation in Hong Kong, we cannot rise in rebellion, nor can we make any fundamental structural change. Being people in the opposition camp, we are also disparaged and some people may even take actions to suppress us. Not to mention the so-called royalist camp or the pro-establishment camp, even the SAR Government and the master of the SAR Government — the Communist Party, also wants to suppress us. Even those people who are in the same camp with us also try to take advantage of us time and again. Frankly speaking, we do not mind as we are always the same and will remain so.

Although we oppose this Bill, it does not mean we oppose the Government offering relief or help to a certain group of people. Rather, it is a matter of principle, to which we adhere uncompromisingly with an indomitable will despite being ill-treated. If we do not voice our opposition, it will be impossible to fight for what we want. Let me tell all of you that this is our notion. Therefore, in our habit of free thinking, there is a way of thinking called "disapproval intended as confirmation". Recently, I participated in a leadership training programme at the University of Hong Kong. Three hours were spent on talking about one point .....

**CHAIRMAN** (in Cantonese): Please confine your speech to the amendment.



**MR WONG YUK-MAN** (in Cantonese): The reason for our opposition to this amendment is founded on this way of thinking called "disapproval intended as confirmation". Chairman, let me tell you how useful this way of thinking called "disapproval intended as confirmation" is. Can you just give me a little time to talk about this? At any rate, the meeting will definitely run into the late hours today and it will have to resume tomorrow, so it does not matter, does it?

I talked about this way of thinking called "disapproval intended as confirmation" with the students at the University of Hong Kong that day and I was inspired by Ms Regina IP to do so. Because Ms Regina IP once queried if there was any problem with the translation of the term "critical thinking" into "批判性的思考" by the Education Bureau. Therefore, this query raised by Ms Regina IP set me thinking, then I taught the students this way of thinking called "disapproval intended as confirmation". Today, our opposition to the Inland Revenue Ordinance is an act of "disapproval intended as confirmation". Chairman, I am not going to keep you any longer.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): If not, I now call upon the Secretary for Financial Services and the Treasury to speak again.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Chairman, originally, this is not supposed to be an occasion for discussing the tax regime. However, having heard Members' comments just now, I wish to say briefly that Hong Kong upholds free economy or a free system and although our tax rates are low, for a long time, the Hong Kong Government has used public resources to support many kinds of social services. This is obvious to all. They include health care, public housing and education, an excellent CSSA system, and so on.

Of course, our discussion on the tax regime can go on and on. In this regard, my colleagues and I will surely continue to listen to Members' views.

However, today is not the time to discuss the tax regime. What we are discussing today is how this amendment to the Inland Revenue Ordinance can help Hong Kong people tide over the difficult times under the present financial tsunami.

Although the discussion on the Inland Revenue Ordinance on this occasion involves some tax concessions, the Financial Secretary has also proposed many other measures in his budget. As Mr WONG Kwok-hing mentioned earlier on, they include relief measures designed to help the public in various areas, such as the rent reduction of public housing and measures relating to CSSA. Here, I wish to provide the information for Members' reference.

Regarding the objective of this tax reduction measure, it is hoped that it can help members of the public face the economic situation brought about by the financial tsunami. It is also hoped that the middle class, which is being affected by unemployment and pay cuts, can be helped. Therefore, I hope that Members can support this amendment, so that the public can enjoy the benefits brought about by the tax reduction on this occasion as soon as possible.

Thank you, Chairman.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the amendment moved by the Secretary for Financial Services and the Treasury be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

**CHAIRMAN** (in Cantonese): Mr Albert CHAN has claimed a division. The division bell will ring for three minutes.

**CHAIRMAN** (in Cantonese): Will Members please proceed to vote.

**CHAIRMAN** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Mr Albert HO, Dr Raymond HO, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Emily LAU, Mr TAM Yiu-chung, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr Frederick FUNG, Ms Audrey EU, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Miss Tanya CHAN, Dr Priscilla LEUNG, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP, Dr PAN Pey-chyou and Mr Paul TSE voted for the amendment.

Mr Albert CHAN, Mr LEUNG Kwok-hung and Mr WONG Yuk-man voted against the amendment.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

THE CHAIRMAN announced that there were 45 Members present, 41 were in favour of the amendment and three against it. Since the question was agreed by a majority of the Members present, he therefore declared that the amendment was passed.

**CLERK** (in Cantonese): Clauses 3 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clause 3 as amended 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.

(Members raised their hands)

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

**CLERK** (in Cantonese): Long title.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): Chairman, consequent to the amendment to clause 3 passed earlier, I move that the long title be amended, as set out in the paper circularized to Members. I hope Members will support the relevant amendment.

Thank you, Chairman.

*Proposed amendment*

**Long title (see Annex II)**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the amendment to the long title moved by the Secretary for Financial Services and the Treasury be passed.

**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: That the amendment moved by the Secretary for Financial Services and the Treasury be passed. 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 amendment passed.

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

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

**INLAND REVENUE (AMENDMENT) BILL 2009**

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

Inland Revenue (Amendment) Bill 2009

has passed through Committee stage with amendments. 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 Inland Revenue (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.

(Members raised their hands)

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

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

**Resumption of Second Reading Debate on Bills**

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Supplementary Appropriation (2008-2009) Bill.

**SUPPLEMENTARY APPROPRIATION (2008-2009) BILL****Resumption of debate on Second Reading which was moved on 10 June 2009**

**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 and that is: That the Supplementary Appropriation (2008-2009) Bill 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): Supplementary Appropriation (2008-2009) Bill.

Council went into Committee.

**Committee Stage**

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

**SUPPLEMENTARY APPROPRIATION (2008-2009) BILL**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Supplementary Appropriation (2008-2009) Bill.

**CLERK** (in Cantonese): Clauses 1 and 2.

**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: That clauses 1 and 2 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.

**CLERK** (in Cantonese): Schedule.

**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: That the schedule 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): Bills: Third Reading.

### **SUPPLEMENTARY APPROPRIATION (2008-2009) BILL**

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

Supplementary Appropriation (2008-2009) Bill

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 Supplementary Appropriation (2008-2009) Bill 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): Supplementary Appropriation (2008-2009) Bill.

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

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Merchant Shipping (Safety) (Amendment) Bill 2009.

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 2009**

#### **Resumption of debate on Second Reading which was moved on 27 May 2009**

**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 and that is: That the Merchant Shipping (Safety) (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): Merchant Shipping (Safety) (Amendment) Bill 2009.

Council went into Committee.

### **Committee Stage**

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

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 2009**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Merchant Shipping (Safety) (Amendment) Bill 2009.

**CLERK** (in Cantonese): Clauses 1 to 52.

**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: That clauses 1 to 52 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): Bills: Third Reading.

### **MERCHANT SHIPPING (SAFETY) (AMENDMENT) BILL 2009**

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

Merchant Shipping (Safety) (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 Merchant Shipping (Safety) (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): Merchant Shipping (Safety) (Amendment) Bill 2009.

## **MOTIONS**

**PRESIDENT** (in Cantonese): Motions. Proposed resolution under the Race Discrimination Ordinance and the Interpretation and General Clauses Ordinance.

I now call upon the Secretary for Constitutional and Mainland Affairs to speak and move his motion.

## **PROPOSED RESOLUTION UNDER THE RACE DISCRIMINATION ORDINANCE AND THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I move the resolution standing in my name on the Agenda. The resolution is to the effect that the Race Discrimination (Proceedings by Equal

Opportunities Commission) Regulation (the Regulation) made under section 83 of the Race Discrimination Ordinance (the Ordinance) be approved, subject to a minor textual amendment .

The Regulation, if passed and when read together with section 83 of the Ordinance, will enable the Equal Opportunities Commission (EOC), in a case where a person suffering racial discrimination, harassment or vilification may bring proceedings under section 70 of the Ordinance but has not done so, to bring court proceedings in the EOC's own name as if the EOC were that person where the case raises a question of principle and it is in the interests of justice to do so and it appears to the EOC that the claim is well-founded.

The Regulation will also enable the EOC to apply for any remedies available to a claimant under the Ordinance. These will include a declaration that the act which is the subject of proceedings is an unlawful act and an injunction in respect of such act.

Although there is a difference in expression in the threshold for the EOC to bring proceedings, between the Regulation and the similar regulations made under the Sex Discrimination Ordinance and the Family Status Discrimination Ordinance on the one hand, and the corresponding regulation under the Disability Discrimination Ordinance on the other, the EOC has confirmed that the standard for deciding whether to bring proceedings in its own name would be essentially the same across all the anti-discrimination ordinances. I note that the EOC has undertaken to issue a public statement to state this position.

President, I beg to move.

**The Secretary for Constitutional and Mainland Affairs moved the following motion:**

"RESOLVED that the Race Discrimination (Proceedings by Equal Opportunities Commission) Regulation, made by the Secretary for Constitutional and Mainland Affairs on 11 March 2009, be approved, subject to the following amendment — in section 3, in the Chinese text, by deleting "指" and substituting "指出"."

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

**MR PAUL TSE** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Race Discrimination (Proceedings by Equal Opportunities Commission) Regulation (the Regulation), I would like to report on the work of the Subcommittee.

The deliberation of the Subcommittee has focused on the difference between the corresponding provisions in the proposed Regulation and the Disability Discrimination (Proceedings by Equal Opportunities Commission) Regulation with regard to the threshold and procedural requirements for the Equal Opportunities Commission (EOC) to bring proceedings.

In respect of the threshold provisions, the Subcommittee notes that the threshold of "it appears to the Commission that the claim of the person is well-founded" is adopted for the EOC to bring proceedings under the proposed Regulation. But under the Disability Discrimination (Proceedings by Equal Opportunities Commission) Regulation, the threshold of "the Commission has reason to believe that a person has committed an act of discrimination" is adopted.

Most of the members have accepted the threshold provisions under the proposed Regulation because the provisions are modelled on the regulations formulated under the Sex Discrimination Ordinance and Family Status Discrimination Ordinance. They all agreed that to specify the criteria for the EOC to consider in deciding whether to bring proceedings in its own name under the proposed Regulation is a reasonable approach.

However, President, some members queried the adoption of the higher threshold of "well founded" under the proposed Regulation may violate the mission of the EOC to promote equality of opportunity.

President, the Administration and the EOC has given an explanation to the Subcommittee, as mentioned by the Secretary just now. Although the two threshold provisions are expressed in different ways, they serve the same purpose and there is no material difference in implementation. The EOC has also

undertaken to issue a public statement, as mentioned by the Secretary in his speech just now, explaining that the standard for making relevant decision will be essentially the same.

President, the Subcommittee also notes that the Disability Discrimination (Proceedings by Equal Opportunities Commission) Regulation imposes additional procedural requirements and prerequisites which do not exist in the corresponding Regulations under the Sex Discrimination Ordinance and Family Status Discrimination Ordinance. And there is no such provision under the proposed Regulation. The Administration has explained that its intent is to allow flexibility for the EOC to bring proceedings and therefore, it may not be necessary to provide such procedural requirements in the proposed Regulation.

The Subcommittee takes the view that in the long term, the Administration should make the best effort to standardize all the provisions, especially the thresholds adopted, under which the EOC may bring proceedings in its own name in accordance with various anti-discrimination ordinances. These provisions should be consistent with its policy objective of affording the EOC flexibility to bring proceedings in its own name.

On the whole, the Subcommittee supports the motion proposed by the Secretary.

President, the foregoing is the report on the work of the Subcommittee that I would like to submit on its behalf.

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

**DR MARGARET NG** (in Cantonese): President, the Race Discrimination Ordinance (the Ordinance) was passed in the last term of the Legislative Council. The deliberation of the relevant Bill is by no means simple. We think it leaves a lot to be desired, including the provision that the Government is not bound. Insofar as this point is concerned, it is even more unsatisfactory than other anti-discrimination ordinances. Many deputations and Legislative Council Members have expressed very strong views on this. Eventually, minor



amendments were made by the Government only after tremendous efforts by all of us.

At that time, all deputations felt that they were in a dilemma. On the one hand, they desperately needed the enactment of an anti-discrimination law to protect their rights, but on the other, they feared that the passage of a flawed piece of legislation would affect their rights. Therefore, the legislation was passed in such a dilemma. At that time, we hoped that the Ordinance could come into operation as soon as possible. But we also thought that we should make more efforts to urge the Government to remedy the deficiencies in the provisions by administrative measures. So, President, the resolution on Race Discrimination (Proceedings by Equal Opportunities Commission) Regulation proposed by the Government today is also related to the early implementation of the Ordinance. However, the deputations, who are facing the same situation as the bill was passed last time, hope that the Ordinance can come into operation as early as possible without any delay. The government officials, taking advantage of such an idea on their mind, refused to give in and just muddled along. President, I very much regret about such an attitude.

President, regarding the Regulation today, after scrutinizing the relevant rules, way of drafting and its content, we have found that there are discrepancies between the Regulation and the Disability Discrimination Ordinance although it is consistent with the Sex Discrimination Ordinance and the Family Status Discrimination Ordinance. However, during our deliberation, we opined that the inconsistencies in the provisions would not lead to any practical difference, given the limited resources of the Equal Opportunities Commission (EOC). In light of its very limited resources, the EOC will certainly very carefully scrutinize a case which requests to bring proceedings in order to determine whether it is well-founded and the chance of winning the case before deciding to bring proceedings or not.

So, President, it seems that there is no difference in practical implementation. However, the problem of insufficient resources does not give us an excuse to say that there is no difference between the two different ways of drafting unless we are blind. On the contrary, the difference in wording certainly implies an actual difference, which has been observed by the legal profession. President, let me cite an example. Under the Regulation, if the EOC is asked to initiate legal proceedings, what kind of proceedings will that be? That will be proceedings which will not be brought by the aggrieved person but

by the EOC. Then, what are the requirements? First, it has given rise to a question of principle; second, proceedings should be initiated for the sake of justice, which is the same as that under the Disability Discrimination Ordinance. The only difference lies in the third requirement. Under the Regulation, it is imperative that the EOC should consider the claim well-founded. Then what are the requirements under the regulation on disability discrimination? The requirement is: "the EOC has reason to believe that a person committed an act of discrimination, harassment, vilification or which is otherwise unlawful under section 72(1) of this Ordinance". Hence, the difference lies in the fact that in the case of race discrimination, it is up to the EOC to decide and the requirement is that the claim is well-founded. This is a subjective judgment and the threshold is high. As for disability discrimination, the requirement is that the EOC "has reason to believe", which is objective and the threshold is lower. Therefore, in terms of provisions, principles and philosophies, there are discrepancies between the two ordinances. This is point number one. I do not agree with the argument that they are the same.

The second point, which is very important, is that many depositions have expressed the view that wordings referring to the same proceedings in all anti-discrimination ordinances should be consistent, despite their agreement that the difference may not be too big in implementation. Meanwhile, the Chief Legal Counsel of the EOC holds the same view because a complaint about discrimination may usually involve more than one form of discrimination, such as both race and sex discrimination. If the same request is made under two different ordinances and there is discrepancy between the two relevant regulations, then people may suddenly realize that there are different yardsticks. So, to ensure consistency in these regulations is almost a unanimous agreement. Concerning the issue of consistency, the government official said that our views had been understood. But this has nothing to do with him because he belongs to the Constitutional and Mainland Affairs Bureau as the issue should be handled by the Home Affairs Bureau. The only role he can play is to relay our views to the relevant Policy Bureaux as if he is a mailbox and his job is done.

Secondly, if different wordings are adopted in the two regulations, which one should be adopted as the yardstick for the sake of consistency? In order to promote anti-discrimination, we consider a lower threshold be adopted as the criterion so that the EOC will have greater power to examine the cases received. Which threshold is lower? Undoubtedly, we think the threshold concerning disability discrimination is lower because firstly, the EOC can bring proceedings

as long as "it has reason to believe" that a person has committed an act in breach of the legislation. Compared with the threshold of "well founded", there is a conspicuous difference. Secondly, we consider that the threshold adopted in respect of disability discrimination is an objective criterion, which will not serve as an excuse for the EOC not to bring proceedings if it does not wish to. On the contrary, if the approach under the Regulation is adopted, it is imperative that the EOC should consider the claim well-founded. As long as the EOC does not think that the claim is well-founded, it may not initiate proceedings. Thus, we need a regulation which is objective, capable of protecting the public and operating with a lower threshold.

However, the representative of the Bureau deliberately distorted the facts. He insisted that the current practice in respect of race discrimination should be adopted in order to give greater flexibility to the EOC which would adopt subjective criteria as the basis. Such an attitude is really shameful. The representative of the relevant bureau basically harbours the thinking that the resolution will surely be passed and he can do whatever he likes as the resolution will be passed in haste. With such a bureaucratic attitude, he muddled along in a perfunctory manner. President, the problem makes me very worried because the Regulation is full of defects, as I said at the beginning of my speech. The promotion of racial equality depends on whether the Administration and the EOC can work very hard with a sense of commitment and enthusiasm. When facing such an official, you can see that he has adhered to red tape. In that case, what is the use of passing the Ordinance and the Regulation? I am not optimistic at all.

President, I would like to raise the second point. In the course of drafting, the EOC has clearly distinguished two kinds of legal assistance to be provided: the first one refers to the stipulation that we have just mentioned. Given that the aggrieved person will not bring proceedings on his own, the EOC will do so based on principle or justice. The second one refers to the legal assistance for the aggrieved party under another provision, which is section 79 of the Ordinance. The condition for providing legal assistance to them is less strict and that is: "the case raises a question of principle; or it is unreasonable, having regard to the complexity of the case or the applicant's position in relation to the respondent or another person involved or any other matter, to expect the applicant to deal with the case unaided." This also relates to the principle of fairness under which the EOC can provide legal assistance to the party concerned provided that one of the conditions is met. Therefore, I have requested the

Administration to make the undertaking that the EOC's power to bring proceedings under the circumstances that the aggrieved person has declined to do so will not affect the extent to which legal assistance will be provided to the ordinary aggrieved persons under the other provision. The Administration has guaranteed that the EOC's power will not be affected and the EOC will have sufficient power to provide assistance.

President, in how many cases has the EOC provided legal assistance and in how many cases have legal proceedings been brought in the past? We found that the number is pitifully small. According to the information provided by the EOC, among 451 applications for legal assistance received as at February 2009, only 58 cases have been resolved by taking legal proceedings. That means the number of applicants for legal assistance is disproportionate to the number of legal actions taken by the EOC. Let us take a look at the resources. According to the relevant information, HK\$6.7-odd million was spent on provision of legal assistance by the EOC. In a city like Hong Kong, it is surprising that such a meagre sum of money has been spent on such purpose over the past few years. Meanwhile, with the assistance of the EOC, the settlement amount received by the plaintiffs and the compensation awarded by the Court totalled more than \$24.6 million. President, with such limited resources, what legal role the EOC can play to help Hong Kong promote the grand mission of anti-discrimination? So, President, on the one hand, we keep passing these anti-discrimination ordinances, while on the other, we face perfunctory officials who merely wish to muddle along. Thirdly, given the insufficient resources of the EOC, we could see it very clearly that the EOC is very weak and helpless when its Chairman came here and briefed us on the ordinances. Under such circumstances, it is really worrying. President, it is not simply the passage of a regulation, but also an issue of how the regulation is implemented.

Finally, President, I would like to take this opportunity to thank those deputations who have spent a lot of time to express their views on behalf of the ethnic minorities and helped us examine these regulations. Later, when other regulations and codes of practice are submitted to the Legislative Council, their help is also much needed in our scrutiny work. Some members of these deputations are also ethnic minorities who have spared no efforts in promoting equality and anti-discrimination in all aspects. So, President, I am most grateful to them and would like to raise an issue. When the work of the Government is so insufficient, especially in respect of race, it really needs the help of the ethnic

minority groups who should be regarded as its partners. Government funding for them should be processed in a more transparent manner and they should be given more opportunities of fair competition. There should be no more affinity difference in respect of fund allocation.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

Therefore, Deputy President, although I support the resolution today, I feel that I have to express my discontent with the Administration. I hope that the Administration will do its utmost to make improvement, while the deputations and this Council will continue to push the Government to work harder. Thank you.

**MS AUDREY EU** (in Cantonese): Deputy President, no matter how some ordinances are passed, they are merely words on paper. Whether or not they can serve their functions depends on how they are enforced and put into practice. If the EOC wishes to defend the vulnerable groups, ethnic minority groups or persons who are prone to discrimination, the most important thing is that it has teeth. In particular, it depends on whether, when the vulnerable groups are being bullied, the EOC can bring proceedings on their behalf so that mistakes or discrimination can be rectified. Therefore, the motion we examine today is in fact very important.

However, as Dr Margaret NG pointed out in her speech earlier, the legal assistance provided by the EOC in the past was most meagre, and the EOC seems so weak and helpless. Deputy President, if this is purely due to the lack of resources or insufficient resources, I would consider it understandable. But I am concerned about why the EOC is so weak and helpless in respect of the legal assistance that it provides. Is it purely because of insufficient resources or because of the history of the EOC? I have looked up some information which was mentioned in my speech this morning. When the EOC was chaired by Ms Anna WU, it initiated legal proceedings against the then Education and Manpower Bureau, on the ground of gender equity, in which female students were discriminated in the allocation of school places in primary schools. Over the years, the EOC had discussed the issue with the Education and Manpower

Bureau and engaged in exchanges by correspondence but to no avail. Eventually, the EOC filed a case in the Court which ruled in its favour.

Shortly afterwards, Ms Anna WU quitted because her contract was not renewed. After that, we can see that the performance of the EOC has been deteriorating. So I am very concerned, Deputy President. Why is the EOC so weak in respect of providing legal assistance? Is it because of the previous lesson that the Government has learnt?

Deputy President, I would like to cite more examples on the problems mentioned by Dr Margaret NG for Members' reference. I have also read the relevant provisions, in which there are wordings such as "well founded". In fact, this threshold is very high. Deputy President, I personally have received a lot of complaints concerning the EOC's reluctance to provide legal assistance to the complainants. Some of these cases are too long and too complicated to explain. But there is a case which is relatively simple and can be shared with Members.

A lady who lodged a complaint of sex discrimination to the EOC has found herself almost being interrogated by the EOC. The EOC cross-checked the information provided by her with her statement to the police word for word, point by point and item by item. For example, she was asked why the police was told that it had happened at 10 o'clock but the EOC was told that it had happened at a quarter past 10 o'clock? According to my vague memory, the complainant told me that she would not look at the clock or watch every time she was being harassed. However, owing to these two minor differences, the EOC, after an interview with her, indicated that in view of the low chance of winning the case, no follow-up action would be taken. Deputy President, such complaint cases have rightly reflected that the threshold is simply too high, as Dr Margaret NG said earlier.

Deputy President, I would also like to point out a recent incident concerning my letter to the EOC yesterday regarding its position towards disability discrimination. Some colleagues are aware of this. At the meeting of the Panel on Education two days ago, I was infuriated on seeing the submission of the EOC in 2005. What is the problem? For children with special needs attending special schools, according to the Codes of Aid — for students studying in mainstream schools, there is no age limit, but for students studying in special schools, they are subject to an age limit — if a student who is

over 18 years old and wishes to repeat the class, he should make an application to the Education Bureau even though the school has given permission. This is an obvious difference. In mainstream schools, there is no age limit of 18 years. But according to the Codes of Aid for special schools, students who have turned 18 should make an application to the Education Bureau. If the Education Bureau does not grant approval and funds, he cannot repeat even though he has been admitted by the school. This is obviously a form of discrimination.

Deputy President, what did the EOC's submission in 2005 say? It said that when a student is asked to leave the school, it is neither a request nor a condition. Rather, it is a choice to the student in special school. If he can study in a mainstream school, he may choose to do so. If he cannot study in a mainstream school, he may continue to receive training in a sheltered workshop.

Deputy President, how can this be regarded as a choice? Why can he not choose to stay in the same school and repeat the class? Why can mainstream school students over 18 years old repeat the class, but not students in special schools? Worse still, it is pointed out in the EOC's submission that this is actually not an age requirement. It does not depend on the age but the students' academic attainment. I really cannot figure this out. So, yesterday I wrote to the EOC, demanding an answer to my question as to what can reflect that the consideration is based on the student's academic attainment. I have raised such a question because it is clearly provided in the Codes of Aid that students over 18 years old are required to make an application and there is no mention of academic attainment. So, I do not understand why the EOC can see something which is not stipulated in the wordings. Why do I have to cite this case in particular? Because I think this is a very common phenomenon rather than a single incident. The performance of the EOC is very, very disappointing.

Therefore, granting the passage of these resolutions so that the EOC can have the opportunity to bring legal proceedings, if the EOC does not use it, it is useless even though we have passed the resolutions. Therefore, Deputy President, I strongly urge the EOC to exercise the powers at the appropriate time and in reasonable circumstances. Otherwise, the legislation that we have passed is tantamount to a piece of white paper unable to be implemented and discrimination in society will continue to occur.

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): If not, I now call upon the Secretary for Constitutional and Mainland Affairs to reply. This debate will come to a close after the Secretary for Constitutional and Mainland Affairs has replied

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): Deputy President, I am very grateful to the several Members who have expressed their views on the Regulation.

One of the most important functions of the EOC in discharging its functions as a statutory body is to deal with all kinds of cases through mediation. This is one of their key areas of work over the years.

Today, we are particularly concerned about under what circumstances the EOC can bring proceedings. I would like to respond to Members' views, particularly the views just mentioned by Dr Margaret NG. I would like to reiterate that the EOC can initiate these proceedings under two circumstances. First, under the special circumstance that the victims are reluctant to bring proceedings, such cases will be dealt with in accordance with the Regulation scrutinized by us today. Second, the EOC will provide legal assistance without prejudice to the circumstances where the victims wish to bring proceedings on their own.

As for the EOC, it will act in accordance with relevant ordinances. As for the Government, we certainly hope that the EOC can provide appropriate assistance to the victims when acting in accordance with these ordinances.

Members are very concerned about whether or not the EOC has enough resources to handle these cases. Currently, the EOC has set aside \$1.5 million annually to meet legal expenses. In addition, the EOC has also built up reserves which now stand at about \$18 million. The EOC can certainly make use of the reserves when necessary. So, overall speaking, resources should not constitute a



difficulty. As long as there are sufficient grounds, the Government will certainly support the EOC in continuing to provide assistance to victims.

Dr Margaret NG has also mentioned that the relevant bodies should be given a fair opportunity to compete, especially those which take care of the interests of ethnic minorities. The Government should provide resources to enable these community bodies to provide relevant services to these ethnic minority groups. This year, we will set up four community centres so that non-governmental organizations can provide interpretation services to ethnic minority groups and arrange other community activities for them. After an open bidding process, these centres will start to operate successively in the next few months.

We have provided a total of \$8 million to set up these four centres and relevant facilities, apart from setting aside \$16 million as annual recurrent expenses. As to whether the resources are adequate or not, Deputy President, we will certainly conduct a review from time to time.

Finally, I would like to take this opportunity to thank Mr Paul TSE, Chairman of the Subcommittee, and other Members who have participated in the work of the Subcommittee for opening up the new horizons for our work in implementing the Race Discrimination Ordinance.

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 Constitutional and Mainland Affairs 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 Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2009 and the Poisons List (Amendment) (No. 2) Regulation 2009.

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

### **PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE**

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Deputy President, I move that the motion under my name, as printed on the Agenda, be passed.

Currently, we regulate the sale and supply of pharmaceutical products through a registration and monitoring system set up in accordance with the Pharmacy and Poisons Ordinance. The Ordinance maintains a Poisons List under the Poisons List Regulations and several Schedules under the Pharmacy and Poisons Regulations. Pharmaceutical products put on different parts of the Poisons List and different Schedules are subject to different levels of control in regard to the conditions of sale and keeping of records.

For the protection of public health, some pharmaceutical products can only be sold in pharmacies under the supervision of registered pharmacists and in their presence. For certain pharmaceutical products, proper records of the particulars of the sale must be kept, including the date of sale, the name and address of the purchaser, the name and quantity of the medicine and the purpose for which it is required. The sale of some pharmaceutical products must be authorized by prescription from a registered medical practitioner, dentist or veterinary surgeon.

Arising from an application for registration of nine pharmaceutical products, the Pharmacy and Poisons Board proposes to add the following nine substances to Part I of the Poisons List and the First and Third Schedules to the Pharmacy and Poisons Regulations:

- (a) Abatacept;
- (b) Feline calicivirus;
- (c) Feline Chlamydia psittaci;
- (d) Feline leukemia virus;
- (e) Feline panleukopenia virus;
- (f) Feline rhinotracheitis virus;
- (g) Cinacalcet; its salts;
- (h) Fesoterodine; its salts; its esters; their salts;
- (i) Temsirolimus; its salts; its esters.

Pharmaceutical products containing the above substances must then be sold in pharmacies under the supervision of registered pharmacists and in their presence, with the support of prescriptions.

We propose that these amendment regulations take immediate effect upon gazettal on 26 June 2009 to allow early control and sale of the relevant medicine.

The two Amendment Regulations are made by the Pharmacy and Poisons Board, which is a statutory authority established under the Ordinance to regulate pharmaceutical products. The Board comprises members engaged in the pharmacy, medical and academic professions. The Board considers the proposed amendments necessary in view of the potency, toxicity and potential side-effects of the medicine concerned.

With these remarks, Deputy President, I move the motion.

**The Secretary for Food and Health moved the following motion:**

"RESOLVED that the following Regulations, made by the Pharmacy and Poisons Board on 3 June 2009, be approved –

- (a) the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2009; and
- (b) the Poisons List (Amendment) (No. 2) Regulation 2009."

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

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for Food and Health 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. Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009.

I now call upon Ms Audrey EU to speak and move her motion.

## **PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**MS AUDREY EU** (in Cantonese): Deputy President, I move that the motion, as printed on the Agenda, be passed. I move this motion in my capacity as Chairman of the Subcommittee on Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009, to extend the scrutiny period of the Amendment Regulation to 14 October 2009.

At the House Committee meeting on 29 May 2009, Members decided to form a subcommittee to study the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation. The Subcommittee finds it necessary to invite deputations to provide views and discuss with the Government on the contents of Amendment Regulation. To allow ample time for scrutiny by the Subcommittee, I urge Members to support the motion to extend the scrutiny period of the Amendment Regulation to 14 October 2009.

Thank you, Deputy President.

**Ms Audrey EU moved the following motion:**

"RESOLVED that in relation to the Air Pollution Control (Volatile Organic Compounds) (Amendment) Regulation 2009, published in the Gazette as Legal Notice No. 107 of 2009 and laid on the table of the Legislative Council on 272009, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the first sitting (within the meaning of section 34(6) of that Ordinance) of the next session of the Legislative Council."

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

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Audrey EU 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 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.

**DEPUTY PRESIDENT** (in Cantonese): 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: Seizing the chance to turn the risks from the "Three Direct Links" across the Taiwan Strait into opportunities.

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

I now call upon Mrs Sophie LEUNG to speak and move her motion.

**SEIZING THE CHANCE TO TURN THE RISKS FROM THE "THREE DIRECT LINKS" ACROSS THE TAIWAN STRAIT INTO OPPORTUNITIES**

**MRS SOPHIE LEUNG** (in Cantonese): Deputy President, last year, the financial tsunami dealt an unprecedented blow to the economies of Europe and the United States, and so on. Owing to our persistent reliance on these markets, we have not been spared. The recent figures reflected a recession rarely found

in years, which revealed that our export-oriented economic structure had failed to effectively resist the impacts arising from shrunken demands in the key markets under economic cycle conditions. Therefore, the repositioning of Hong Kong and the proactive exploration of new directions and development modes are pressing tasks. The implementation of the "Three Direct Links" policy by the Central Authorities and the Taiwan authorities late last year is both a challenge and a good opportunity. The SAR Government must implement corresponding policies and measures, improve leadership and co-ordination, and encourage the participation of various sectors and the community so as to improve our economic and business environment, and enable our society to benefit from the new circumstances after the implementation of the "Three Direct Links".

Deputy President, the Task Force on Economic Challenges explored yesterday a new direction for the development of Hong Kong and it announced some new recommendations. About the six key industries, the provision of land was proposed to promote the development of industries with advantages, and strategies for nurturing talent were explored, the ideas were brilliant. I hope that the Chief Executive's policy address in October would contain proposals in greater detail, which would be able to take the social development of Hong Kong one step further.

Let us return to the subject of the "Three Direct Links". General commentaries including those by economic experts, academics and think-tanks are mostly negative comments about the effects of the "Three Direct Links" on Hong Kong. Quite a few people think that, after the implementation of the "Three Direct Links", there will be direct air passenger and air cargo traffic and export trade across the Taiwan Strait, and these activities will no longer be conducted via Hong Kong. Hence, it will undoubtedly weaken the intermediary role that Hong Kong has played for years, and deal a severe blow to the import and export, re-export trade and shipping businesses. Actually, after the implementation of the "Three Direct Links" in December, the air passenger and air cargo traffic volumes of flights to Taiwan and the Mainland via the Hong Kong International Airport have dropped substantially.

Although the "Three Direct Links" across the Taiwan Strait will have certain adverse impacts on our economy in the short term, it depends on how we address the issue in the long run. Being a consistent Chinese policy, "Three Direct Links" has the objective of improving cross-strait relations to allow

residents in the two places across the Taiwan Strait to travel directly to and from these places, step up communication and lay a foundation for joint development. Since Hong Kong is part of China, it should support and co-ordinate these efforts. Moreover, as the implementation of the "Three Direct Links" eases cross-strait relations and intensifies economic activities, more business opportunities will be created. So, we should focus on studying how we could make use of Hong Kong's advantages to tie in with cross-strait economic and social development, and make up for the loss of some economic and trade interests after the implementation of the "Three Direct Links".

As proposed in my motion, to maintain our status as an aviation centre, and attract mainland and Taiwan flights to continue using the Hong Kong airport, the authorities concerned should explore the issue of fully opening up air rights and opening up the fifth freedom rights with the Mainland and Taiwan, to allow local airlines to operate more popular routes to China and Taiwan. Besides increasing our aviation income, this would make Hong Kong play a stronger role in the operation of the regional aviation interchange. Nevertheless, opening up air rights, especially the fifth freedom rights, must be achieved through negotiations between the Central Government and foreign countries. Therefore, I suggest that the authorities should proactively reflect to the Central Government our request for opening up the Mainland's fifth freedom rights, and clarify and establish the mechanism for negotiations on opening up air rights with Taiwan.

Second, I also suggest enhancing our co-operation with the Pearl River Delta (PRD) airports, to achieve complementarity of edge and strengthen Hong Kong's position as an international aviation centre. In pursuance of this objective, the authorities should make proactive plans for cross-boundary infrastructure projects such as the Hong Kong-Shenzhen Airport Rail Link and the Hong Kong-Zhuhai-Macao Bridge. This would help extend our aviation hinterland to west PRD and facilitate putting in place matching transport facilities between our airport and the Mainland. With better developed international routes in Hong Kong, we will be able to attract transfer passengers from the Mainland, to make up for the drop in Taiwan passengers.

The third point is about actively promoting communication with Taiwan. Both the non-government organizations and the business sector must first gain an in-depth understanding of the similarities and differences between the two places so that they will know their enemies and themselves. This will also promote



more comprehensive integration between the three places in such areas as culture, commercial activities and the people.

Cultural exchanges more often than not drive economic activities. Owing to historical factors, China, Hong Kong and Taiwan have different cultural backgrounds. We do not need to assimilate the other parties because what is valuable in culture is that it lets a hundred flowers blossom. But we must understand our differences before we can appreciate them. The British Government knew some 60 years ago that cultural activities often landed at the overseas markets earlier than economic activities. It funded the establishment of the British Council, which now has more than 200 offices in over 100 countries or regions. Consumers very often try to understand the culture of a place before using its products. Taking the creative industry as example, if we fail to have more cultural exchanges with China and Taiwan, even if a very good advertising footage is shot in Hong Kong, nobody in China and Taiwan may appreciate it because they lack understanding of the cultural difference. Jiufen was the setting of the movie "A City of Sadness" by the Taiwanese film director HOU Hsiao-hsien many years ago. Because of this movie, Jiufen has swiftly become a popular tourist spot, and it is a must-see destination for tour groups even today; this demonstrates the influence of cultural exchanges.

Therefore, the authorities may have to establish more systematic and comprehensive channels for strengthening exchanges and co-operation at the non-government and societal levels, and in areas of tourism, cultural and creativity between the three places across the Taiwan Strait. Furthermore, in respect of non-government activities, efforts should be stepped up to encourage more Taiwan residents to come to Hong Kong. The authorities should arrange for reciprocal visa-free treatment for Hong Kong and Taiwan passengers so as to promote talent exchanges between Hong Kong and Taiwan.

In addition, the authorities should proactively take forward such measures as the mutual recognition of professional qualifications between Hong Kong and Taiwan to give local professional services and professionals of international standard more room of development, introduce into Hong Kong technical professionals from Taiwan, and promote the diversified development of local professionals. Work has commenced on the mutual recognition of professional qualifications between Hong Kong and the Mainland, and the specific measures have been included in the Mainland/Hong Kong Closer Economic Partnership

Arrangement (CEPA) agreement. The Government can negotiate with the Taiwan authorities under the CEPA framework.

The effective implementation of the above proposals involves a number of policies; for example, the air rights negotiations involve mainland affairs and transport policies; enhancing co-operation and co-ordination with the PRD airports is related to such areas as development policies, engineering and development, transport and economic development. As regards the implementation of visa-free treatment for Hong Kong and Taiwan passengers and promoting exchanges between the residents of the three places, the assistance of the Security Bureau and the Home Affairs Bureau would be required. Hence, in the longer run, I finally suggest that the authorities should set up a higher level inter-departmental task force to consider and co-ordinate the above efforts, and make long-term strategies and plans for promoting the economic and trade co-operation and development in the three places across the Taiwan Strait.

Deputy President, promoting stable economic and social development in the three places across the Taiwan Strait is a common goal of all Chinese people. This task is not only about economic interests, it also puts emphasis on social and cultural construction. Deputy President, I think the authorities should seek to give the industry players and the public ample opportunities such that the task would be more comprehensive and command more acceptance, and we can get twice the result with half the effort.

Deputy President, I would like to say more about my views. The Chinese communities all over the world, including the three places across the Taiwan Strait, comprise a large number of overseas Chinese people. The Chinese culture has a leading role to play in these Chinese communities which have ardent expectations of Hong Kong, that is, they hope that Hong Kong can play a leading role. Whether Hong Kong can play a leading role is actually not only dependent on the efforts made by the Government, but also on the efforts made by the people. At this level, I hope that the motion proposed today would stimulate discussions by various parties. In terms of cultural and civil exchanges in particular, we can more strongly promote and encourage such exchanges so that the Chinese communities would realize their expectation regarding the leading role of Hong Kong in the near future.

I so submit, Deputy President.

**Mrs Sophie LEUNG moved the following motion: (Translation)**

"That, since the implementation of the "Three Direct Links", i.e. direct maritime, air and postal links, across the Taiwan Strait in December last year, coupled with the impact of the financial tsunami, the air passenger and air cargo traffic of Hong Kong has, to a certain extent, been affected; however, apart from promoting cross-strait exchanges and trade flows, the "Three Direct Links" across the Taiwan Strait is also a development opportunity for Hong Kong; as such, this Council urges the Government to formulate a comprehensive plan to turn the "Three Direct Links" across the Taiwan Strait into an opportunity for Hong Kong to further develop the relations among the three places across the Taiwan Strait, including:

- (a) conducting a study on fully opening up air rights on a reciprocal basis with the Mainland and Taiwan, so as to raise Hong Kong's position as a regional and international aviation centre;
- (b) strengthening co-operation with the neighbouring airports in the Pearl River Delta to achieve complementarity of edge, so as not to result in mismatched development and to consolidate Hong Kong's status in aviation;
- (c) putting into place arrangement for mutual visa-free access between Hong Kong and Taiwan, and establishing formal channels among the three places across the Taiwan Strait to strengthen exchanges and co-operation at the non-government and societal level as well as in areas of tourism, culture and creativity, etc; and
- (d) setting up a high level inter-departmental task force to study and co-ordinate long-term development plans for promoting economic and trade co-operation among the three places across the Taiwan Strait."

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

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

I will call upon Mr Tommy CHEUNG to speak first, to be followed by Mr Alan LEONG, Mr Albert CHAN, Mr Fred LI, Mr IP Wai-ming, Mr WONG Ting-kwong and Dr Priscilla LEUNG; but no amendments are to be moved at this stage.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, with the gradual easing of cross-strait relations and the implementation of the "Three Direct Links", the deadlock between people in the two places across the Taiwan Strait is broken and exchanges have increased. The replacement of confrontation with dialogue should have given Hong Kong people cause to rejoice. However, the "Three Direct Links" across the Taiwan Strait can bring both risks and opportunities to Hong Kong. As Hong Kong has all along played an intermediary role between the two places across the Taiwan Strait, it will inevitably be facing a significant challenge. Whether it can ultimately turn the risks into opportunities depends on whether or not the SAR Government can seize the opportunity and provide the relevant conditions.

In fact, the Liberal Party has always advocated that we should positively face up to the general trend of the "Three Direct Links" across the Taiwan Strait. When Mr Stephen LAM, the Secretary for Constitutional and Mainland Affairs, paid an official visit to Taiwan early this month, Ms Miriam LAU, the Chairman of the Liberal Party, especially wrote to the Secretary asking him to negotiate with the Taiwan authorities during his visit on the arrangement for avoidance of double taxation, and to strive for Taiwan granting visa-free entry for Hong Kong residents, with a view to strengthening Hong Kong-Taiwan relations so that Hong Kong would benefit from the increasingly intense exchanges and trade flows between the two places across the Taiwan Strait.

At present, Hong Kong has entered into agreements for avoidance of double taxation with 32 countries and regions including the Mainland. But it is a pity that Hong Kong has not yet negotiated with the Taiwan authorities on the matter.

Looking back at the two places across the Taiwan Strait, the avoidance of double taxation has been placed on the agenda since last year. Not long ago, the

Taiwan Executive Yuan indicated that it was considering making amendments to the legislation on the relations between the residents of the two places across the Taiwan Strait to allow tax waivers on the proceeds of Taiwan businessmen from their investments on the Mainland. If Hong Kong does not sign a similar agreement with Taiwan as soon as possible, it will possibly be marginalized.

As regards the visa-free treatment for Taiwan passengers, the Liberal Party has spared no efforts in striving for the measure in recent years. Though the SAR Government has introduced a series of measures facilitating the entry of Taiwan people this year, we had better learn from Macao and put into place an arrangement for visa-free access of people from Taiwan to make it easier for Taiwan passengers to come to Hong Kong.

Based on the principle of reciprocal benefit, we also hope that the Taiwan authorities will further relax the visa arrangement for the entry of Hong Kong people, for example, allowing visa-free access of Hong Kong residents. If Taiwan and Hong Kong make arrangements for mutual visa-free access between Hong Kong and Taiwan, I believe it will help promote the interaction between Taiwan and Hong Kong, for the benefit of both parties.

(THE PRESIDENT resumed the Chair)

Furthermore, after the implementation of direct air links between the two places across the Taiwan Strait, Hong Kong's status as an aviation hub across the Taiwan Strait will definitely be seriously threatened. The Government cannot cast all cautions to the winds and keep talking favourably about Hong Kong; it should expeditiously take corresponding measures, for example, negotiating with Taiwan and the Mainland on opening up more air rights, especially the fifth freedom arrangements.

Currently, the Mainland has opened up for Hong Kong more than 50 destinations for cargo and passenger transport but these are basically "point-to-point" arrangements, failing to deal with the arrangements for the onward transportation of cargoes and passengers to other mainland cities or reciprocal arrangements after the flights from Hong Kong have arrived at mainland cities; not to mention the negotiations with Taiwan about similar arrangements.

Nevertheless, if Hong Kong reaches fifth freedom agreements with Taiwan and the Mainland, it will certainly be able to further absorb the air passenger and cargo transport from the two places via Hong Kong. This can not only offset the blow dealt by the direct air links across the Taiwan Strait, the opportunity can also be taken to upgrade our status as an air cargo hub in Asia, and thereby promote the development of the aviation, logistics, transportation and tourism industries. In fact, we can gain several advantages with a single move.

Our expectation is that, after Secretary Stephen LAM's Taiwan visit, Hong Kong and Taiwan will gradually engage in official negotiations on air rights so as to make a breakthrough in flight arrangements between Hong Kong and Taiwan.

The five major airports in the PRD should also continue to enhance co-operation and make joint efforts for the establishment of an aviation hub in the PRD, which will proactively reinforce our position in air services.

Thus, the Liberal Party supports the points in the original motion moved by Mrs Sophie LEUNG. However, the Liberal Party would like to add a few points about this issue of the "Three Direct Links", and I have therefore proposed an amendment.

President, for political reasons in the past, the Taiwan market had prohibited the sale of mainland products since 1949 and the market was only gradually opened up in 1988. Today, 2 213 agricultural and industrial products of China are still not sold in Taiwan, which account for 20.47% of all these products. Even among the 8 599 Chinese products allowed for sale in Taiwan, 484 products are sold on condition. On the Mainland, the Procedures for the Administration of Small-Volume Exchange of Goods between the Mainland and Taiwan put restrictions on trade with Taiwan. For example, the small-volume trade with Taiwan shall not deal in goods that have been franchised by the state; and the import or export in small-volume trade for a vessel on each voyage shall not exceed US\$100,000. There are evidently quite a lot of barriers in trade between the two places across the Taiwan Strait.

These unnecessary artificial obstacles will considerably hinder the exchanges or trade between the residents of the two places. For instance, to evade Taiwan's restrictions on mainland products, if Hong Kong businessmen

who have set up factories on the Mainland want to transport certain products to Taiwan, they must carry out some procedures that could otherwise have been obviated in a third place such as Hong Kong or Macao in accordance with the relevant import requirements. These procedures could increase costs and undermine consumer interests.

The Taiwan authorities obviously realize this problem. During the Taiwan election in 2008, MA Ying-jeou was the first to propose that the two places across the Taiwan Strait should later sign the Comprehensive Economic Cooperation Arrangement (CECA), which was later officially referred to as the Economic Cooperation Framework Agreement (ECFA), in the hope that the customs-based or non-customs-based trade barriers between the two places could be eliminated. We think that the SAR Government should make efforts to help the two places eliminate trade barriers and work together to build a common market in Greater China.

The establishment of an office by the Hong Kong Trade Development Council (HKTDC) in Taiwan earlier on symbolizes further improvement in Hong Kong-Taiwan relations. We hope the HKTDC office in Taiwan will play a more proactive role in assisting Hong Kong businessmen in further development and promoting Hong Kong-Taiwan trade.

Furthermore, under CEPA, Hong Kong and the Mainland have signed mutual professional qualifications recognition agreements in respect of architects and the insurance sector. Yet, similar arrangements have not been made between Hong Kong and Taiwan for the professional service sectors.

For this reason, we really hope that the Government can step up negotiations with the Mainland and sign further professional qualifications recognition agreements while examining negotiations with the Taiwan authorities on similar arrangements, such that the professionals in the three places may freely choose their places of operation and give full play to their professional expertise.

Concerning the amendments, the directions of Mr WONG Ting-kwong's and Mr IP Wai-ming's amendments tally with that of the original motion, thus, the Liberal Party will vote for these amendments.

Mr Alan LEONG's amendment proposes enhancing the functions of Chung Hwa Travel Service. Actually, other Taiwan organizations in Hong Kong already perform similar functions and the proposal is not necessary at the moment. Mr Albert CHAN's amendment puts the blame for the slow development of Hong Kong-Taiwan relations on the SAR Government, which the Liberal Party regards as unreasonable.

As to Mr Fred LI's amendment, though the Liberal Party supports facilitating mainland visits and exchanges by Hong Kong residents and members of representative assemblies, we do not agree that the mainland immigration policies can be neglected to allow casual entry and exit under the pretext of exchange.

Dr Priscilla LEUNG's amendment objects to the implementation of an arrangement for mutual visa-free access between Hong Kong and Taiwan, which is hardly comprehensible. Hence, we cannot support it.

I so submit, President.

**MR ALAN LEONG** (in Cantonese): President, the Civic Party visited Taiwan in May and met with Mr Eric CHU, vice-chairman of the Chinese Kuomintang, Mr WANG Jin-pyng, President of the Legislative Yuan, Mr Jason HU, Mayor of Taichung City, and the representatives of the Mainland Affairs Council. Besides conveying Hong Kong people's hope of being granted visa-free treatment, we even proactively expressed to the Mainland Affairs Council our views on how to effect changes to the Taiwan-Hong Kong relations which was at a standstill. However, it takes two to tango; Taiwan and Hong Kong should seek a breakthrough in the present circumstances of the implementation of the "Three Direct Links" across the Taiwan Strait, and the SAR Government should take the initiative to co-operate with the Taiwan authorities.

Today, I especially propose this amendment using the Legislative Council platform to express my opinions on the performance of the SAR Government which leaves much to be desired.

President, before the reunification, Hong Kong was already playing a special and important role in cross-strait relations. The 1992 Consensus was the



outcome of the Wang-Koo talks in Hong Kong back then, which laid an important foundation for the development of cross-strait relations today. Nevertheless, after the reunification of Hong Kong and when the Democratic Progressive Party was in power, Taiwan-Hong Kong relations were politically sensitive issues. Although the Taiwan authorities still wanted to have exchanges with Hong Kong, affected by its sensitivity, the SAR Government still allowed Taiwan-Hong Kong relations to remain frozen. It has also failed to maintain the historical role of Hong Kong, actively resolve political conflicts and promote the development of cross-strait relations.

President, after three meetings between the Straits Exchange Foundation and the Association of Economy and Trade across the Taiwan Strait, the "Three Direct Links" has been implemented smoothly. Playing an intermediary role between the two places across the Taiwan Strait, Hong Kong faces a great challenge. Even so, I think that the SAR Government should not be overcautious in dealing with Taiwan-Hong Kong relations. Among the three places across the Taiwan Strait, Hong Kong enjoys some advantages after all. As Mr Sean CHAN, Chairperson of the Financial Supervisory Commission, remarked when he visited Hong Kong, Hong Kong was second to none in terms of financial rules and regulations, systems and transparency, and its status was irreplaceable. The Civic Party opines that, so long as the Hong Kong Government is as good as its words at this critical moment when the "Three Direct Links" has been implemented and really seizes the opportunity, Hong Kong definitely has the ability and potential to gain a foothold, in order to give play to its vested advantages in the two places across the Taiwan Strait at this historical moment.

President, last year, I advocated that the SAR Government should consider setting up a department responsible for cross-strait economic and trade exchanges within the Commerce and Economic Development Bureau to deal with economic issues after the implementation of the "Three Direct Links" across the Taiwan Strait in future. This is very similar to the proposal made by Mrs Sophie LEUNG. Through high-level specially tasked divisions, it is intended to formulate long-term and feasible plans for the development of Hong Kong in the three places across the Taiwan Strait. I am happy to note that the SAR Government has decided to establish a Hong Kong-Taiwan Business Co-operation Committee. I hope the Administration and the Taiwan authorities would find new development opportunities through this new mode of exchange.

President, it has been my belief all along that Hong Kong should make good use of its roles and more proactively take the initiative to promote non-government and official exchanges among the three places across the Taiwan Strait. I will talk about establishing the rule of law first. We have a proven legal system and the values of the rule of law are deeply rooted in the hearts of people. In May this year, 30 senior mainland judges attended a workshop on the rule of law and the common law system at the School of Law of the City University of Hong Kong. Moreover, the efforts made by the Independent Commission Against Corruption in the past 20 years or so have transformed Hong Kong from a place with rampant corruption into one of the corruption-free places in the world today. The valuable experience serves as great reference for the two places across the Taiwan Strait which have gone in quest of the rule of law and spared no efforts in combating corruption in recent years.

In respect of environmental protection, The Taipei City Government has implemented the policies of mandatory garbage sorting and per bag trash collection fee. As a result, people voluntarily sort their household waste into three categories: recyclable waste, kitchen waste, and standard waste, substantially improving the recovery rate of recyclable materials and reducing the utilization rates of landfills and refuse incinerators, with positive effects on environmental hygiene in the community. President, though we may not necessarily be able to copy wholesale all the above policies in Hong Kong, the experience of Taiwan fully reflects that the Government and the people are ready to co-operate and work together in environmental hygiene, and the quality of life in the community has been improved. Hong Kong can also use this for reference.

The Chief Executive has referred earlier to the development of the cultural and creative industry. In 2007, Taichung City won the reputation of being the best city in the world in terms of culture and arts. City Mayor Jason HU increased within eight years Taichung people's frequency of participation in cultural and artistic activities from less than four times a year to nearly 32 times on average. As for Taipei City, the Hushan Culture Park and the Taipei Story House are famous cultural spots which have contributed a lot to the tourism industry of Taiwan. The successful experiences of Taichung City and Taipei City in this connection really offer good reference for Hong Kong.

President, it is a pressing task for Taiwan and Hong Kong to sign an agreement to avoid double taxation. At present, quite a few Taiwan businessmen have established companies in Hong Kong, in addition to establishing factories and making investments on the Mainland. But as Singapore and Taiwan have already signed an agreement to avoid double taxation, this policy will attract quite a number of Taiwan businessmen to set up their base in Singapore. The Civic Party strongly agrees with the remarks just made by Mr Tommy CHEUNG from the Liberal Party. If we do not rouse ourselves to catch up, we will very likely fail to make a head start. If these Taiwan businessmen have already set up bases in Singapore, I trust it will be difficult, to a certain extent, to attract them to Hong Kong again in the future. President, the Civic Party hopes that the Government will expeditiously sign with Taiwan an agreement to avoid double taxation to enable Hong Kong to become an important platform for Taiwan businessmen to operate businesses on the Mainland.

President, early this year, the Central Government proposed at the Bo'ao Forum the gradual development of multi-destination itineraries for cruise tourism. Mainland tour groups are allowed to travel to Taiwan via Hong Kong on cruise vessels home-porting Hong Kong. Nonetheless, in terms of hardware, Hong Kong currently fails to meet the berthing demands of large cruise vessels and it has allowed business opportunities to slip by. Therefore, the Kai Tak cruise terminal project should be expeditiously implemented to tie in with the promotion of cruise tourism in the three places across the Taiwan Strait.

President, as Taiwan and Hong Kong have respectively established quasi-government organizations for exchanges, the role of the Chung Hwa Travel Service has become more embarrassing. The Administration should try its best to negotiate with the Taiwan authorities to re-determine the role of the Chung Hwa Travel Service and create a new bridge for exchanges between the two places.

President, the "Three Direct Links" bring closer links between China and Hong Kong, and the SAR Government can definitely not be absent from the negotiation platform for the three places across the Taiwan Strait. The Chief Executive must take the initiative to uphold the interests of Hong Kong. On the one hand, he should highlight the advantages of Hong Kong and enable Hong

Kong to continue to play its special and important historical role. On the other hand, it should promote the synergy effects of co-operation among the three places, which would result in an "all-win" situation for China, Hong Kong and Taiwan.

I so submit, President.

**MR ALBERT CHAN** (in Cantonese): President, first of all, the motion today is on the latest development of the "Three Direct Links" and our need to turn the risks into opportunities. This description is in itself seriously flawed and problematic in terms of meaning because the "Three Direct Links" is a major event for the Chinese people as well as a major event in moving towards peaceful unification. Thus, it is not clear where the risks lie. Perhaps, it is the interests of individual vested interest groups, individuals or certain consortia which will be challenged or jeopardized. However, on the premise of the pursuit of peaceful unification of China, I cannot see why there is any risk; and particularly for the people of Taiwan and those people in the Mainland who have connections with Taiwan, I cannot see any risk in this. Therefore, such wording indeed requires amendment.

President, the most important point in my amendment is to condemn the Hong Kong Government for ignoring the importance of liaising with Taiwan over the past 12 years. The Government only came to learn about the "Three Direct Links" after they had been announced, as if it had just awakened from a dream. Over the past two decades, from the time when the ban on political parties and newspaper was first lifted to the time I observed the elections in Taiwan, I have been visiting Taiwan frequently to observe the development of its political parties, elections and government. I also noticed that various aspects of the development of their civic groups can serve as useful reference and lessons for Hong Kong. Besides, Hong Kong can also draw very useful lessons from the governance of Taiwan, in particular, the governance of its municipal governments, especially regarding the environment and district and urban development. However, our Government just restrains itself from making progress.

Therefore, regarding the blunders of the Government over the past 12 years, I have convicted the Government of seven sins. Of course, not all the seven sins were committed by "LAM the Eunuch", but most of them involved

acts performed by him. He must be condemned for the heinous sins he committed. He should even be removed from office should such an opportunity arise. The first sin is the change of attitude from arrogance to subservience and the lack of initiative. I have just said that there were actually plenty of opportunities for Hong Kong to befriend Taiwan over the past 12 years. Besides, the Central Government could, with Hong Kong acting as a bridge, establish a relations and contacts with Taiwan. Hong Kong plays a very important role in the political development, personal networking and promotion of co-operation among the Mainland, Taiwan and Hong Kong. Unfortunately, however, certain government officials have fully exhibited their "dog mentality". As long as the master has not instructed them to take any action, they will continue to dream their dream of government officials, entirely oblivious to the importance of the geographical situation and political development. A simple case in point is that, regarding the work of the Government, although Secretary Stephen LAM is responsible for liaison in various areas, he still said before the Kuomintang returned to power that there was no need to set up an office in Taiwan. Many of his previous viewpoints show that he has completely ignored the importance of political development.

His second sin is his superciliousness and arrogance and his total disregard for the importance of Taiwan's overall development and its achievement in democratic election. When referring to Taiwan's achievement in democratic development in his reply to a question in this Council on 24 January 2007, he even said that the people of Hong Kong did not agree to the "money politics" in Taiwan. He did not meet with the Taiwan envoy in Hong Kong until two years after he had assumed the office of Secretary for Constitutional and Mainland Affairs, and he even refused to meet with CHANG Liang-jen. This supercilious attitude of his has greatly infuriated the Taiwan authorities.

His third sin is the contravention of the "QIAN's Seven-point Principles" and his feeble attempts to be smart. President, MA Ying-jeou had proposed to visit Hong Kong, but according to the sixth principle of the "QIAN's Seven-point Principles", all official contacts and exchanges between the Hong Kong Special Administrative Region (SAR) Government and Taiwan in various forms have to be reported to the Central People's Government for approval. Regarding MA Ying-jeou's proposed visit to Hong Kong, YANG Wenchang advised that the SAR Government had never consulted the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the SAR before making its decision. In making such an important decision, government

officials made feeble attempts to be smart by ignoring the importance of the need to report to the Central People's Government all communications between Hong Kong and Taiwan as stated in the "QIAN's Seven-point Principles".

The fourth sin of the Government is its power abuse and deliberate attempts to make things difficult for Taiwan officials. The most obvious case is that it has often put off the issuance of entry visas to Taiwan officials in Hong Kong. It has even refused the entry of Taiwan official ZHANG Zhi-yuan. In response to enquires, the Immigration Department only referred to him as a Taiwanese man. Such an attitude is total disregard for and an insult to the status and importance of official representatives of Taiwan.

The fifth sin of the Government is its lack of compassion and its bureaucracy and ossification. The most obvious case in point is its barring of PAO Cheng-kang from entering the airport restricted area, which was widely covered in the press back then. At that time, PAO Cheng-kang intended to enter the airport to see his former superior, which was an act not involving any special political elements. However, by displaying insults, our officials acted like "a donkey in a lion's hide"; and by barring the most high-ranking official representative of Taiwan in Hong Kong from even entering the airport, they fully displayed their "shameless flunkey" quality.

President, the sixth sin is its deliberate confusion of right and wrong to deceive the public. When MA Ying-jeou applied for a visit to Hong Kong, the public remarks made by officials were extremely deceptive or even slanted by the concealment of facts. In response to enquiries about whether or not MA Ying-jeou had applied for a visit to Hong Kong, they sometimes said a visa had yet to be issued, but sometimes they even stated explicitly that problems relating to the anti-sedition law might be involved. In the end, they even suggested MA Ying-jeou through certain people to cancel his trip on the ground of heavy official commitments. This act was most unwise and a serious dereliction of duty in dealing with the relations between Hong Kong and Taiwan.

The seventh sin is its suppression of Taiwan officials' freedom of speech in Hong Kong. In July 1999, CHENG An-kuo attended the radio programme "Hong Kong Letter" upon the invitation of Radio Television Hong Kong and expressed his views in defence of the "two-states" relationship. This did not only give rise to many reactions from pro-Beijing people, but "LAM the Eunuch", in his capacity as Information Coordinator of the Chief Executive's Office, even

criticized CHENG An-kuo's remark as inappropriate. CHENG An-kuo is a supporter of and now an official highly trusted by MA Ying-jeou. Therefore, we can see that the policies and administrative measures implemented by the Hong Kong Government over the years have undermined the Taiwan-Hong Kong relations and the trust of Taiwan officials in Hong Kong.

When DENG Xiaoping formulated the idea of "one country, two systems" back then, it was hoped that Hong Kong would become an example to demonstrate to the people, officials and political parties of Taiwan that "one country, two systems" is desirable. On the contrary, with these acts of Hong Kong officials which have revealed their "dog mentality", bureaucracy and ossification, power abuse as well as superciliousness and arrogance, the people of Taiwan have completely lost their confidence in "one country, two systems".

Therefore, when "LAM the Eunuch" visited Taiwan earlier — he is now very popular, and many people of Taiwan know who the "human recording machine" and "LAM the Eunuch" is, and they also address him in these ways. "LAM the Eunuch" is now very famous ..... he is famous, how could he be notorious? "LAM the Eunuch" is very famous. This Hong Kong official known as the "human recording machine" has made the people of Taiwan laugh up their sleeves even by watching television programmes about him. President, this is the image of Hong Kong officials to the people of Taiwan.

**MR FRED LI** (in Cantonese): President, in the past, the exchanges between Hong Kong and Taiwan were not complete, as they were only limited to exchanges at societal level. Due to wariness of the SAR Government, exchanges among government officials were basically kept to low-level communications. It is not until the relations between China and Taiwan have improved recently that the officials of the SAR Government make an about turn in their attitude from resistance, negligence and indifference to total acceptance and friendliness. It even appears that they could not wait to meet the Taiwan officials. The present attitude is completely different from that of old. I think this difference in attitude is born out of the political reality. We can still understand that in the past, for communication might not be convenient. However, we actually should not strongly resist the officials from Taiwan. The sudden change in attitude and the skills in face changing of the high-ranking officials of Hong Kong have impressed people as rather odd indeed.

However, late communication is still better than no communication at all. The exchanges among government officials can interact with the exchanges at societal level. This definitely is conducive to the communication between Taiwan and Hong Kong.

In the two places where Chinese people live, the government officials and people of Hong Kong and Taiwan can now enjoy free exchanges. The exchanges of government officials and people between the Mainland and Taiwan are also developing in a positive direction. The exchanges are not only limited to government officials from the ruling party (for example, the leaders of Kuomintang and the mainland officials can have mutual visits). Recently, the "brave warrior" of the Democratic Progressive Party, Ms CHEN Chu, who is the Mayor of Kaohsiung, could also formally shake hands with Mr GUO Jinlong, Mayor of Beijing, and could even exchange the experience on the development of Shanghai with Mr HAN Zheng, Mayor of Shanghai. Nevertheless, looking at Hong Kong, when the Legislative Council Members were visiting the Mainland to see its development, we met a lot of restrictions. Some Members were even — I believe all of you know who these Members are. They are Members from the democratic camp, and there are some members of the public as well — denied issuance of the Hong Kong and Macao Residents Entry and Exit Permits (also known as Home Visit Permits) with a validity of 10 years so that they can freely travel between Hong Kong and the Mainland.

While Hong Kong and Taiwan have already started communications, communications between the Mainland and Taiwan are also going well. The only missing link falls on the serious problems between the Mainland and Hong Kong. In that triangular board, once there is any defect, true links among these three places will not be achieved, and the so-called "Three Direct Links" is actually devoid of meaning in reality.

Since the Legislative Council Members were granted opportunities of arranged visits to the Mainland since 2005, not many colleagues could be issued the Home Visit Permits with a validity of 10 years. They can only superficially understand the development in the Mainland through these occasional short-term visits. However, we can see that even in the visit to Sichuan by the Legislative Council Members of the last term, a few Members were barred from boarding the plane and had to cancel the trip. Without free participation, how can they fulfil



their responsibilities of monitoring our Sichuan earthquake relief projects? All these are obstacles to the co-operation between China and Hong Kong.

Some people cannot have freedom in travelling to witness the economic development of the Mainland and to feel the social and public changes in the Mainland, because the ruling party is not broad-minded while the government departments of the SAR are too weak. The right of Hong Kong people to return to their hometown should not be taken away without reasons, nor should it be left unattended by the SAR Government. Therefore, the Democratic Party urges the Government to continue to try its best to fight back the right to return to the hometown for those members of the public who are unable to return to the Motherland.

The original motion suggests conducting a study on fully opening up air rights on a reciprocal basis with the Mainland and Taiwan, so as to raise Hong Kong's position as a regional and international aviation centre. The Democratic Party certainly supports this suggestion. At present, there is competition to become the aviation hub in the Asian Pacific Region. The competition is very keen, as almost all airports of big cities are fighting vigorously to be the hub of air passenger and air cargo traffic. The status of Hong Kong is being threatened by strong competitors. For instance, in North Eastern Asia, Incheon Airport of South Korea has already replaced the Hong Kong International Airport as the most popular airport in the world. For all those years, Hong Kong was always ranked first. However, this top position has already been taken by Incheon Airport of South Korea recently. In South Eastern Asia, of course, there are Changi Airport of Singapore and Kuala Lumpur Airport of Malaysia. In order to attract transit passengers to use it for transfer to another destination, Incheon Airport co-operates with the airline companies of South Korea in offering air ticket concessions. Added to the edge that it operates direct flights to many cities in the United States, Incheon Airport can successfully attract not a few United States-bound travellers who choose to transfer to flights there.

China is the fastest growing market of the world. Every year, there are millions of travellers going to China for travel and business. The Hong Kong International Airport, in fact, has the ability to deal with a large number of flights. If Hong Kong can fully open up air rights on a reciprocal basis with the Mainland and Taiwan, the air passenger and air cargo throughput of the airports in the three places can be substantially increased. It is because travellers from all over the

world can use the airport of Hong Kong or Taiwan to go to the Mainland, while mainland travellers can also use the airport of Hong Kong or Taiwan to go anywhere in the world. They will have more choices in terms of flights than before and will have more flexibility in arranging their itineraries. Under this circumstance, the airports of Hong Kong, the Mainland and Taiwan can all be benefited.

The original motion proposes strengthening co-operation with the neighbouring airports in the Pearl River Delta (PRD) to achieve complementarity of edge, so as not to result in mismatched development and to consolidate Hong Kong's status in aviation. This has got the support of the Democratic Party. It is because within the radius of less than 200 km, there are five major civilian airports in the long area of PRD. If the five airports do not co-operate with each other, it will only lead to overlapping of services and vicious competition. Eventually, it will be harmful to the five airports. Therefore, the Hong Kong International Airport must effect division of labour and co-ordination with the other four airports in order to achieve an all-win situation for the five airports. And the status of Hong Kong as the aviation hub can thus be further strengthened.

Since many technical areas are involved in aviation while long-term planning is also needed, various government departments will have the opportunity to participate in the related work. In order to achieve efficient consolidation and utilization of resources of various departments, the Democratic Party also agrees with the suggestion of the original motion of setting up a high level inter-departmental task force to study and co-ordinate long-term development plans for promoting economic and trade co-operation among the three places across the Taiwan Strait.

I so submit.

**MR IP WAI-MING** (in Cantonese): President, this motion is moved today because in terms of the relations between the Mainland and Taiwan, since the implementation of the "Three Direct Links" at the end of 2008, the frequency and closeness of the exchanges across the Taiwan Strait has been the highest since 1949. Of course, we are delighted to see the improvement in the relations between the Mainland and Taiwan. However, with the increased exchanges between the two places across the Taiwan Strait, Hong Kong will inevitably be

affected. It is because over the past decades, Hong Kong has been acting as a bridge of exchanges between the two places and functioning as an intermediary, precisely because of the lack of direct maritime and air transport between the Mainland and Taiwan. However, now direct flights have already been launched across the Taiwan Strait, and either air passenger traffic or cargo traffic does not need to go through Hong Kong. This will inevitably affect the development of the local aviation industry. Therefore, I have incorporated the direction of development of the aviation industry, which includes discussing the setting up of a task force on an airport cluster in the Greater Pearl River Delta, studying the construction of the third runway for the airport of Hong Kong, as well as discussing with the Mainland on opening the airspace so that more flights can land in and depart from Hong Kong.

In fact, under the impact of the global financial tsunami, the aviation industry is already hard hit by the global economic recession. When the financial tsunami first broke out, in January this year, the aviation industry of Hong Kong speedily contracted. Compared with the same period last year, in January 2009, the freight volume already drastically dropped 28.9%, while the air traffic volume was reduced by 2%, with a total of 24 000-odd flights. The cargo deadweight of Cathy Pacific Airways Limited, a local airline, was 101 000 tonnes, representing a drop of about 26%. From February 2008 to January 2009, the air cargo volume of Hong Kong has dropped 6%. The above situation shows the sluggishness of the aviation industry currently. Nevertheless, apart from the impact of the financial tsunami, the development of the local aviation industry is also affected by the "Three Direct Links" across the Taiwan Strait. Although in the long run, we hope to make this pie bigger, in the short run, our aviation industry will be affected to a certain extent.

Besides, according to the Report of Hong Kong External Merchandise Trade (with breakdowns by mode of transport) announced in 2008 by the Hong Kong Census and Statistics Department, the air cargo value of Hong Kong was \$1,945.7 billion, accounting for 35% of the overall trade value. In terms of imports, the air freight value in 2007 was also as high as \$1,103.7 billion. Compared with \$381.1 billion recorded in 1997, the average annual increase is 11.2%, which is higher than the value of merchandise imported through other modes of transport. We thus see the importance of the air cargo transportation industry in Hong Kong.

In fact, in early March this year, the five major airports in the Pearl River Delta (PRD) initialled an action agenda in relation to the implementation of the Outline of the Plan for the Reform and Development of the Pearl River Delta by the five major airports in the Greater PRD. The positioning of the Hong Kong airport is to strengthen its status as an international hub, while Guangzhou is to enhance its international competitiveness on the foundation of the comprehensive gate hub of China. Not only has the financial tsunami led to shrinkage of local cargo traffic, but it also highlighted that Hong Kong is now facing more competitors. In fact, apart from the airports in the PRD, there are also other airports in the Mainland competing with us. For instance, in order to attract more flights landing at the Tianjin Airport, Tianjin has been offering fuel subsidy of \$40,000 for landing and departure of each passenger flight, and a subsidy of \$20,000 to each cargo flight. The completion of the customs approval procedures in air freight capacity sharing for All Nippon Airways of Japan and Northwest Airlines of the United States has led to a total number of seven "virtual flights". In regard to Shenzhen which is neighbouring Hong Kong, in June 2011, the Shenzhen Airport will become a new city of modernized aviation hub with the centralized functions of sea, land, air and railway transportation. It is estimated that the total air passenger capacity of Shenzhen Airport can reach 60 million passengers per year, and the cargo throughput will reach 2.4 million tones. This will pose great competition to the Hong Kong Airport.

President, logistics industry is one of the four pillars of the Hong Kong economy, employing a lot of workers. The Hong Kong Federation of Trade Unions (FTU) is also very concerned about the living of members of the logistics industry. Therefore, the FTU has set up a Logistics and Transport Industries Committee. In April this year, this Committee released a study report titled "The Medium and Long-term Perspectives of the Development of Hong Kong Logistics and Transport Industries". Our study report has mentioned in detail our viewpoints towards the future medium- and long-term development of the logistics industry. The report points out that with the Cross-strait Air Transport Agreement, the number of charter flights will drastically increase from 36 to 108, and the number of destinations will increase from five to 21. According to the reply of the Government to a question of the Legislative Council in June 2008, there were about 27 million Taiwan travellers going to and coming back from China through the Hong Kong International Airport, and this accounted for 11.2% of the airport passenger throughput for the whole year. We expect that Hong Kong will be affected to a certain extent in this aspect.

Therefore, President, we hope that the Government can consider the recommendations in the study report. One of them is that the Hong Kong Government can, through inviting the National Development and Reform Commission and the General Administration of Civil Aviation of China, and together with the management of the five airports of Hong Kong, Guangzhou, Macao, Shenzhen and Zhuhai, discuss the setting up of a task force on an airport cluster in the Greater PRD to exchange views on issues relating to the positioning, air space, flight routes, flight schedules, runway construction and equity exchange of the airports in the region. In our opinion, the setting up of this task force can help avoid vicious competition among the airports in the region. Under the vision of an all-win situation, they will gradually unite to become a composite airport in the region. Hong Kong, as the international hub for passenger and cargo traffic, can put the emphasis on the development of inter-continental airlines for larger planes and longer hauls. Overall speaking, we think that although the two major airports of Hong Kong and Guangzhou can assume the leading role as the regional hub airport, the three airports in Shenzhen, Macao and Zhuhai can, through effective division of labour, make up for the shortfall of small and medium airports, short and medium flight routes, inexpensive flights and pure cargo flights.

President, I so submit.

**MR WONG TING-KWONG** (in Cantonese): President, since Mr MA Ying-jeou was elected as the leader of Taiwan, there has been rapid development in the relations across the Taiwan Strait. Not only are there frequent contacts among government officials across the Taiwan Strait, policies to expedite the economic, social and public exchanges have also been implemented one after the other. After the implementation of the "Three Direct Links" across the Taiwan Strait on 12 December 2008, the State Council also formally announced in May this year "Certain Views on Supporting Fujian Province to Expedite Construction of the Economic Zone on the Western Side of the Taiwan Strait". It aims to speed up the development of the economic zone on the western side of the Taiwan Strait (western economic zone) and enhance the function of serving the people across the Taiwan Strait. The Association for Relations Across the Taiwan Straits and the Straits Exchange Foundation may later discuss the signing of the Economic Cooperation Framework Agreement. With the relations across the Taiwan Strait getting closer, there will be changes in the intermediary role that Hong Kong has been playing, as well as the demand across the Taiwan Strait

for the commercial and professional services provided by Hong Kong. Therefore, Hong Kong should grasp this opportunity well and equip itself for restructuring to take up the leading role with a greater competitive edge in the PRD.

President, after the launching of the "Three Direct Links" across the Taiwan Strait, there have been comments indicating worry about the status of Hong Kong as the intermediary being weakened. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) holds that Hong Kong, renowned for its resilience, can become the biggest winner in this changing situation only if it can adapt to changes. As mentioned by LIN Yifu, Senior Vice President and Chief Economist of the World Bank, the three links across the Taiwan Strait are conducive to the economic development of the Mainland and Hong Kong will also be benefited, especially in the increased demand for professionals and services of the financial platform. Therefore, the emphasis of the future development of Hong Kong should be on the tertiary industry like financial industry, trade and tourism. It should continue to play the role as a window for China's alignment with the rest of the world.

Hong Kong has all along been the most attractive place for investment to the enterprises of various regions. It is because we possess a strong international network, offer comprehensive financial services and have a sound legal system. For professional service providers of Hong Kong, including lawyers, accountants, people offering insurance and securities services as well as financial management consultation services, not only are they well-versed in the legal and accounting systems of the Mainland, but they also know the operation of international trade and investments well. Facing the trend of the "Three Direct Links", Hong Kong can thus continue to play its role as an intermediary to become the ideal bridge between mainland capital investing in Taiwan and capital raising by Taiwan enterprises.

Since the "Three Direct Links" will give impetus to the economic recovery of Taiwan, we can expect that more Taiwan enterprises will have the conditions and need to raise capital through listing, with a view to strengthening their businesses and investment foundation. The DAB thinks that to optimize our function as an international financial centre, the SAR Government and the Hong Kong Exchanges and Clearing Limited (HKEx) should take a more proactive approach in doing more publicity work, such as putting up more road shows, in Taiwan. They should explain to the Taiwan enterprises the listing rules and

market operation, in order to attract more Taiwan enterprises to raise capital in Hong Kong through listing. Besides, the HKEx should enhance the collaboration and co-operation with the Taiwan Stock Exchange Corporation, strengthen the information exchanges between the two corporations, and achieve complementarity through co-operation between the Hong Kong and Taiwan securities market. In regard to the HKEx, it also needs to increase and strengthen the channels for raising capital. For example, it can encourage and assist Taiwan enterprises engaging in real estate development businesses to come to Hong Kong for listing in the form of real estate funds. The Hong Kong Securities and Futures Commission should also consider providing more measures to encourage Taiwan-funded securities firms to develop their businesses in Hong Kong. Due to their business relations with Taiwan enterprises, more Taiwan-funded enterprises may be attracted to list in Hong Kong. With Hong Kong being the biggest entrepreneurial investment centre in Asia, the SAR Government should encourage more Taiwan-funded enterprises of high technology with potential to raise capital through the investment funds in Hong Kong.

President, after the full implementation of the "Three Direct Links" policy, people across the Taiwan Strait will have higher expectations towards the tasks in the western economic zone. Since early 2004 when the western economic zone was first mentioned at the Fujian Municipal People's Congress, it has been under active construction. In the Government Work Report of 2006 and the Outline of the Eleventh Five-Year Plan, mention was also made of the plan to spend 10 to 15 years of efforts to develop the western economic zone into an enterprise cluster, port cluster and city cluster of scale, so that it will become a prosperous district of economic development in the Mainland. By positioning the western economic zone as the pilot zone for exchanges and co-operation of people across the Taiwan Strait, we can expect that under full support from the Central Authorities for the construction of the western economic zone with more relaxed policies and generous capital, the next few years will be the golden era of development in the western economic zone. Although Fujian Province is the base of the western economic zone, it is also adjacent to Hong Kong and Macao. Hence, the development of the economic zone will bring a lot of business and economic opportunities to the enterprises, investors and even professionals of Hong Kong. The SAR Government should hence actively participate in the planning and construction of the western economic zone. This can bring good opportunities for Hong Kong enterprises which long for developing the domestic market to enter the mainland market. Besides, this can also explore more opportunities for

the manufacturing, tourism and financial industries of Hong Kong and new momentum for the economic development of Hong Kong could thus be created.

At the end of last year, the Hong Kong Trade Development Council (HKTDC) formally set up an office in Taipei, with a view to promoting the exchanges and co-operation between Hong Kong and Taiwan in various areas such as service industry, financial industry and the application of technology. The DAB is of the view that in order to promote exchanges and co-operation between Hong Kong and Taiwan effectively, the office should positively step up the work of attracting investments from Taiwan. As Taiwan businessmen like to join together and form clusters of enterprises, in the course of attracting investments, the focus should be on the work of large enterprises and listed companies of Taiwan. Once the trend of large enterprises of Taiwan coming to Hong Kong for development is formed, this will definitely attract other related small and medium enterprises from upstream and downstream to invest in Hong Kong. As a result, the effect of yielding twice the result with half the effort can be achieved.

Since the reunification of Hong Kong, although the official exchanges between Hong Kong and Taiwan have been far more frequent than before, apart from the HKTDC office in Taipei and the newly proposed Hong Kong-Taiwan Business Co-operation Committee, there is yet to be a clearer standing mechanism to facilitate communication and co-ordination of relevant government officials and departments between Hong Kong and Taiwan, as well as the Taiwan organizations stationed in Hong Kong. Since the scope of exchanges between Hong Kong and Taiwan is growing wider, while the areas involved are also varied, including politics, economy, culture and administration of justice, it is not possible for the SAR Government to assign only one department to deal with all Taiwan affairs. Obviously, the SAR Government must have a co-ordinating mechanism to deal with Taiwan affairs. The DAB thinks that the SAR Government should, under the seven fundamental principles set out by Mr QIAN Qichen, expedite the study on the possibility of setting up an official office in Taiwan, so as to rationalize the existing communication and co-ordination mechanism between the SAR and Taiwan.

President, all in all, although the implementation of the "Three Direct Links" may have immediate impacts on Hong Kong, with the deepening of the economic and trading relations across the Taiwan Strait and the expansion of the



scale, it is possible that Hong Kong will benefit from it and such benefits will far outweigh the short-term impacts. The acquisition of long-term benefits will depend on whether the SAR Government can seize the opportunity and formulate a comprehensive policy at an early stage so as to enhance the competitiveness of Hong Kong, whether it can upgrade the existing competitive edges in finance, trade and professionals, and whether it can actively participate in the exchanges among the three places across the Taiwan Strait and continue to act as the ideal intermediary across the Taiwan Strait.

President, I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): President, since Mr MA Ying-jeou has assumed office as the leader of Taiwan, the relations across the Taiwan Strait have begun to defrost. I believe this is already a fact that no one can deny. At the same time, people are also paying attention to the relations between Hong Kong and Taiwan, especially when Hong Kong has been playing the role of an intermediary across the Taiwan Strait all these years.

Last month, I had the opportunity to lead a group of Hong Kong professionals to visit Taiwan, and I was lucky enough to visit a few major departments responsible for the affairs of the three places across the Taiwan Strait. We see that in opening up the Taiwan Strait, Taiwan has from time to time considered whether there will be changes to Hong Kong as an intermediary. Some analysis has been drawn up by their group of experts, including Prof YANG Kai-huang. He told us frankly that if relations across the Taiwan Strait began to normalize, Hong Kong would be directly threatened in three aspects. This is the analysis by Taiwan itself.

Firstly, it is the role of an intermediary, the role of intermediary for professionals and the role of intermediary of information that we have been playing. He pointed out that in these three aspects in the past, if Taiwan wanted to have direct exchanges with the Mainland, it had to go through Hong Kong. Now the role of Hong Kong in this aspect has been weakened or greatly affected indeed. However, we have contacted not a few persons responsible for affairs related to the relations between Hong Kong and Taiwan as well as the relations across the Taiwan Strait. Even Mr CHIANG Pin-kung, the person in charge of the Straits Exchange Foundation, has been emphasizing his hope that Hong Kong can strengthen its unique role at this time. He has also given us some concrete

suggestions. For what they said, we also share the feeling. They have told us that Taiwan people actually have a special feeling towards Hong Kong people, and the mainland counterparts cannot yet take our place as we have built up a kind of friendly relations all these years. They are particularly fond of touring, eating and drinking as well as shopping in Hong Kong. Of course, they also like the software services of Hong Kong. They also suggest that we put more efforts in this aspect. If we can strengthen the provision of some services which the Taiwan people can not obtain in the Mainland, Hong Kong will still offer some unique appeal to them.

On the one hand, since I have been doing research in judicial assistance in the legal systems of the three places across the Taiwan Strait, I also notice that since the 1990s, the politics of Taiwan have changed from non-division of Blue and Green Camps to the division of Blue and Green Camps. Since their new leader has taken office now, there is a kind of China fever or Mainland-mania that I have never seen in Taiwan. As far as the atmosphere is concerned, on the one hand, there was a huge banner saying Mr MA Ying-jeou has betrayed Taiwan hanging outside the President House, with a group of people sitting outside for almost 24 hours daily. On the other hand, when we were riding its taxi, watching its television, and reading its newspaper, we noticed that all headlines of the press and all phone-in programmes were talking about the Mainland. They talked about their exchanges in people's life as well as economic co-operation. There is indeed a form of delightful contrast in this atmosphere. Compared with the atmosphere in 2005 — I was lucky enough to visit Taipei with a group of 50 deans of schools of law in the Mainland — the tension between the Blue Camp and the Green Camp could not be felt today.

On another occasion, we had the opportunity to visit the Legislative Yuan and were received by President WANG Jin-ping. He brought along two Legislative Committee Members, one was Ms CHU Feng-ying who belonged to the Blue Camp and the other one was Ms CHEN Ying who belonged to the Green Camp. They met us together. We thus saw that their leaders were putting efforts in easing the tension — at least in foreign affairs — between the Blue Camp and the Green Camp as we could see.

From these bits and pieces, we can see that Hong Kong must put in extra efforts. I have contacted a lot of persons-in-charge of small and medium enterprises in Taiwan. They all said that during the past decade, they had

already suffered enough and opportunities were very limited then. Nowadays, they can see a vision and thus they do not touch politics anymore, but only hope to grasp the opportunities well through the financial tsunami. At the same time, what impressed us deeply was that they put their hands on our shoulders and encouraged Hong Kong to work harder lest we might be marginalized. These are some of the reactions of some members of the public in Taiwan.

Therefore, in my amendment, I of course mention education at societal level and environmental protection which are also mentioned in the original motion. I will talk about them later. I also mention how to streamline the customs clearance procedures for residents of the three places across the Taiwan Strait, and that is the promise that I have to keep. During the talk with Mr CHIANG Pin-kung, Mr WANG Jin-ping and Ms CHU Feng-ying, since they knew that I was doing research on the relations between Hong Kong and Taiwan as well as the relations across the Taiwan Strait, they said they wanted me to relay a message and that is, there could be reciprocal arrangements for issuance of visas for residents of Hong Kong and Taiwan. Under the existing arrangement, they offer visa-on-arrival to Hong Kong people. If Hong Kong can consider granting them visa-on-arrival, they will feel better. They will feel that there are less difficulties and obstacles than before. Therefore, I now respond to the question of Mr Tommy CHEUNG. He said that he did not understand why I would delete the part on mutual visa-free entry. Insofar as putting in place arrangements for mutual visa-free access between Hong Kong and Taiwan, I will not oppose. However, to my understanding, when the authorities of the two places discuss these issues, the principle of reciprocity is very important. Hong Kong alone cannot arrange for visa-free access. Moreover, as far as I understand it, the arrangement for visa-on-arrival still encounters great difficulties to date. However, I have honoured my promise by formally relaying this message to the Hong Kong Government, and this can also remove a lot of unnecessary misunderstandings.

On the other hand, what impresses me deeply is their promotion of green environment. Mr Alan LEONG has just mentioned the green city and I do not want to repeat it. However, what impress me more deeply are the policies mentioned by two leaders. When Mayor HAU Lung-bin mentioned the promotion of greening in Taipei City, he said that at the beginning, there was much resistance. Nevertheless, I can really see that in the busy city of Taiwan, there is a track assigned for the construction of a bicycle trail. We can thus imagine the extent of difficulties that he has to overcome. However, he also told

us that he was already accustomed to dissenting voices. But if he aimed at a target and it was in line with public views through consultation, he would drive for it.

The second city that also impresses me deeply is Taichung. When I visited Taichung a few years ago, it was still a third-grade city in Taiwan. Nonetheless, it has become the most affluent city of Taiwan today. Over the past eight years, under the leadership of the incumbent mayor, its income surplus has doubled and redoubled. I believe Mayor Jason HU is a legend. What has left me a deep impression is his showing me how he, through the greening direction, has promoted Taichung to become a place where many tourists would like to spend their money. In this city, Eslite Book Store has used 150 000 plants. When he led us to the building, with the sunlight shining and breezes blowing, the outer wall of the whole building was very pretty. What they use are not what we called green materials. We really see the sheer green outer walls of a tall building. It has thus become a landmark in Taichung. Hong Kong is a concrete jungle. When promoting a green environment, we may need to draw reference from neighbouring cities. Therefore, I think that when the Hong Kong Government draws reference on development in this aspect, it does not need to look very far. Sometimes the experience of our neighbouring areas, including Singapore, is also worthy reference for us.

I trust that Mr MA Ying-jeou, after becoming the party chief, will surely have opportunities to meet President HU Jintao, and the relations across the Taiwan Strait will be greatly improved by then. Hence, Hong Kong needs to proactively maintain our crucial role as the intermediary. Thank you, President.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, first of all, I would like to thank Mrs Sophie LEUNG for moving today's motion debate. I also thank the many Members who are concerned about this issue and have proposed amendments so that we can draw on collective wisdom and discuss how to strengthen the relations and exchanges between Hong Kong and Taiwan.

Over the years, Hong Kong has attached great importance to the economic and trade ties with Taiwan. The bilateral trade between Hong Kong and Taiwan

has increased from \$160 billion in 1997 to \$250 billion in 2008. Taiwan is Hong Kong's fourth largest trading partner in Asia.

The flow of people between the two places is significant, with more than 2 million Taiwanese visitors coming to Hong Kong for travel, business and exchange annually.

This is particularly obvious in the past few years when the cross-strait relations have upgraded. In 2005, LIEN Chan, Chairman of Kuomintang was invited by the Central Authorities to visit the Mainland. The historic handshake between LIEN Chan and the General Secretary, HU Jintao, in the Great Hall of the People turned a new leaf in cross-strait relations.

Since the Pan-Blue camp came to power again after Taiwan's presidential election in 2008, a positive cross-strait interaction has commenced. To date, the Straits Exchange Foundation and the Association for Relations Across the Taiwan Straits have held three round of talks signifying the commencement of the "Three Direct Links".

Facing such a new situation, Hong Kong is reluctant to lag behind the others. We have formulated a strategy to actively promote the interaction between Hong Kong and Taiwan. In this regard, I particularly wish to mention measures in three aspects. First, the establishment of bilateral commerce and trade co-operation committees. After more than six months of planning and close negotiations with Taiwan, I held a working meeting with the Mainland Affairs Council during a visit to Taiwan in early June. After reaching a consensus, we made an announcement on our agreement in principle to promote and establish bilateral commerce and trade co-operation committees.

Although these two are non-governmental bodies, high-level government officials of Hong Kong and Taiwan will also participate in the work. The high-level officials of Hong Kong will form an advisory group to support the work of the Hong Kong-Taiwan Commerce and Trade Cooperation Committee while the high-level officials of Taiwan will participate in the work of the Taiwan-Hong Kong Economic and Cultural Cooperation Council to support their Economic Cooperation Committee. From now on, these two bilateral co-operation committees will interact with each other and officials from the two sides will also be able to use this newly created platform to discuss issues of

mutual concern, thus facilitating discussion, negotiation, exchanges and communication.

Secondly, I would like to mention that the Hong Kong Trade Development Council (TDC) officially opened an office in Taipei in October last year. This is a historic and ground-breaking step as it is the first time that a statutory and semi-official body of Hong Kong has set up an office in Taiwan, which also represents an important milestone.

Thirdly, I would like to take this opportunity to mention Taichung City, which has also been particularly mentioned by Dr Priscilla LEUNG and other Members. In respect of our interaction and exchange strategy with Taiwan, we have determined to set up the HK-Taiwan Inter-City Forum. The forum was held for the first time in Hong Kong when Taichung Mayor Jason HU, leading a 100-member delegation, was invited to a visit in Hong Kong in mid-April. This is the first visit by an official delegation in Hong Kong.

Our concept is very straightforward. Hong Kong, as an international metropolis in Asia, can have exchanges with Taiwan, our partner, on practical issues, economic and trade flows, as well as municipal management so that our leaders can understand each other and build up co-operative relations. We have launched the relevant work and are most willing to continue our interaction in these aspects with all major cities and counties in Taiwan in the days ahead.

Overall, several Members consider that there must be overall co-ordination within the higher echelons of the SAR Government. We absolutely agree to this. Thus, in last year's policy address, the Chief Executive has announced the establishment of the inter-departmental steering committee with the Financial Secretary as the convenor to promote Hong Kong-Taiwan relations.

Finally, I would like to discuss the work already briefly explained earlier. The work began well before the implementation of the Three Direct Links. When we have realized the gradual upgrading of the cross-strait relations since 2005, our work in this aspect has commenced. Before Taiwan's presidential election was held last year, the Government had made preparations by, for instance, setting up an office in Taiwan through the TDC. We put forward the proposal to Taiwan in 2007 and actively promoted it in early 2008. Thus, the office could be formally set up in October 2008.

Let me turn to our attitude towards the Three Direct Links across the Taiwan Strait. Over the years, I am convinced that both the Hong Kong SAR Government and the community support the Three Direct Links across the Taiwan Strait, which will certainly bring new challenges to us. The Secretary for Transport and Housing, Ms Eva CHENG, will later on give Members a brief account on the implications on Hong Kong's entrepot trade and shipping as at today. This is a challenge, but it has also brought us some new opportunities.

In fact, over the years, there have been multi-links between Hong Kong and Taiwan in terms of trade, shipping, capital and flow of people. There are links in all these aspects. Therefore, from our perspective, the Three Direct Links will lead to an upgrading of the cross-strait relations and economic development, thus bringing plenty of business opportunities to Hong Kong. Our greatest hope is that the increase in the cross-strait flow of people will greatly benefit the service industries of Hong Kong and Taiwan. In future, if mainland enterprises can invest in Taiwan and Taiwanese enterprises can further invest in the Mainland, then the first thing Hong Kong should do when these enterprises prosper is to invite them to seek stock exchange listings in Hong Kong in order to further enhance Hong Kong's status as an international financial centre, thus consolidating our status as an international trade and shipping centre.

President, I would like to respond to the proposed amendments by some Members.

Mr Fred LI has particularly mentioned the problem concerning the Hong Kong and Macao Residents Entry and Exit Permits. We all support the Three Direct Links. However, I must point out that it is the Mainland's public security authorities which determine how to handle the entry and exit of mainlanders and the arrangements for people from the rest of the world to enter or leave the Mainland for work in accordance with the laws of the Mainland.

Mr Albert CHAN has made various allegations. But I think his arguments entirely not true and sheer fabrications. Over the years, we have been handling Taiwan affairs in accordance with Qian's Seven Principles and the entry of Taiwan people in accordance with the Immigration Ordinance of Hong Kong and, of course, under the principle of "one China".

In the past few years, we have seen political figures from the Pan-Blue and Pan-Green camps frequently visiting Hong Kong, apart from the official visits by

members of the legislature and the leadership at county and city level. Those who have recently visited Hong Kong, as we can see, include Jason HU, Mayor of Taichung City, whom we have just mentioned, Eric CHU Li-luan, Taoyuan County Magistrate and Mr Sean C. CHEN, Chairperson of the Financial Supervisory Commission, who visited Hong Kong recently. As for the ministerial-level officials of Taiwan, they are also welcomed. We welcome not only the Pan-Blue camp. Ms CHEN Ju, Mayor of Kaohsiung City from the Pan-Green camp also visited Hong Kong several months ago. So, we have turned a new leaf in the Hong Kong-Taiwan relations which have been gradually upgrading in the past few years.

Mr Alan LEONG, who is very concerned about Hong Kong-Taiwan co-operation, has specifically mentioned the enhancement of the functions of some Taiwan organizations in Hong Kong, such as the Chung Hwa Travel Service. I would like to point out that according to Qian's Seven Principles, both Taiwan organizations in Hong Kong and their personnel may preserve their original positions after Hong Kong's reunification with the Mainland in 1997. This situation has not changed so far.

After setting up the bilateral commerce and trade co-operation committees, the high-level officials of Hong Kong and Taiwan can further engineer mutual interaction and co-operation through this platform. I believe we will enter a new phase in which the interaction, exchanges and co-operation between Hong Kong and Taiwan will also enter a new era.

President, this is my opening speech to briefly express my views. Thank you, President.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the subject of the motion debate proposed by Mrs Sophie LEUNG today is a concern to the public, the shipping and other sectors and the Government. I am going to explain the Government's policy related to the part of the motion on aviation services and respond to the views expressed by Honourable Members.

The Three Direct Links across the Taiwan Strait as an important step in the positive development of cross-strait relations should be affirmed. In the long run, smooth and harmonious cross-strait relations are conducive to the promotion



of cross-strait economic activities, which will induce an increase in the overall trade and freight volume and create opportunities for Hong Kong. But, in the short run, direct air links across the Taiwan Strait will inevitably deal a blow to the aviation industry in Hong Kong.

The cross-strait chartered weekend flight service was launched in July 2008, expanded in December 2008 and further expanded under a supplementary air transportation agreement signed by the two places across the Taiwan Strait in April 2009. The new arrangement becomes effective in late June 2009.

We have been paying close attention to the effects of direct air links across the Taiwan Strait on the Hong Kong International Airport. From January to April 2009, the Hong Kong-Taiwan air passenger volume was 2.5 million passenger trips, 7.1% less than in the same period last year while the overall passenger volume of the airport dropped 4.3% during the same period.

Regarding cargo transport, between January and April 2009, the Hong Kong-Taiwan air cargo volume was 108 000 tonnes, 31.3% less than in the same period last year while the overall cargo volume of the airport dropped 22% during the same period.

Ever since the introduction of the cross-strait chartered weekend flight service, our aviation industry has also been affected by the financial tsunami and the slackened global economy, as well as the blow dealt by the human swine influenza. The figures above indicate that, besides the reduced overall demand for aviation services, as a result of the direct air link across the Taiwan Strait, the passenger and cargo volumes of the Hong Kong International Airport have been affected to a certain extent, putting pressure on the air passenger and air cargo traffic to and from Hong Kong.

As Mrs Sophie LEUNG has stated in her motion, apart from promoting cross-strait exchanges and trade flows, the Three Direct Links across the Taiwan Strait also offers a chance for the development of Hong Kong.

Facing the challenge of direct cross-strait air link, our work is oriented towards consolidating Hong Kong's status as an international and regional aviation hub, proactively creating an environment that would encourage competition and giving room for the development of the aviation industry. In order to achieve this objective, our two main areas of work are precisely covered

by the two points in the original motion on air services. The first point is enlarging the scope of air service arrangements, giving room and flexibility for the development of flight routes and expansion of airline services. The second point is strengthening our links with the neighbouring airports through co-operation with them, and making more effective use of the airspace and the resources of various airports to promote air service development in Hong Kong and the neighbouring regions. Furthermore, the Pearl River Delta (PRD) Region is an important hinterland for the sources of passengers and cargoes of the Hong Kong International Airport. Strengthening the sea and land links between the Hong Kong International Airport and the PRD is an important factor contributing to the development of the airport. Lastly, in connection with airport and infrastructure construction, we will ensure that the Hong Kong International Airport will maintain its high efficiency and safety standard, with sufficient passenger and cargo handling capacities to cope with the increases in the transportation demands, and its competitive edge in the future. We will also take forward cross-boundary infrastructural projects at full speed in order to promote people and cargo flows.

I would like to take this opportunity of the motion debate today to listen to Honourable Members' views, and I will give a detailed account on the Government's work in the relevant areas when I give a response later. Thank you, President.

**MR TIMOTHY FOK** (in Cantonese): President, cross-strait relations have been displaying a strong momentum since they were brought back to the track of peaceful development in May last year. Driven by the Three Direct Links, there have been frequent economic and trade interactions. The first Straits Forum has provided cross-strait exchanges at the societal level with a new platform, developing a new setting for joint development across the Taiwan Strait. In the face of the new situation whereby both sides of the Strait will advance together, Hong Kong must keep abreast of the times in injecting into its role as an intermediary for both sides of the Strait over the years with new missions and contents.

In fact, civilian exchanges between Hong Kong and Taiwan, particularly in the areas of sports, culture and performing arts, and even economic and trade exchanges have never ceased over the past several decades, and the two places have been maintaining close relations. Taiwan is Hong Kong's fifth major

trading partner, third major export market, eighth major re-export market and fourth major place of origin for imports, with bilateral trade between the two places reaching US\$34.2 last year. As regards personnel exchanges between Hong Kong and Taiwan, an average of 2.3 million passenger trips per annum are made by Taiwanese travellers for business or sightseeing in Hong Kong, and nearly 400 000 passenger trips per annum are made by Hong Kong people to Taiwan.

Certainly, most of the interactions between Hong Kong and Taiwan are still confined to individual actions of civilian enterprises. Owing to a lack of overall co-ordination and planning between specific departments, the scope, strength and results of these interactions have been severely affected. In recent years, with the ice-breaking trips and dialogues made by senior personnel of Hong Kong and Taiwan, major breakthroughs have been successfully made in the economic and trade development of the two places. All of these, if integrated with the development of cross-strait relations, will not only foster the integrity of the regional economic development of Hong Kong and Taiwan, but also boost the strengths of Guangdong, Hong Kong, Taiwan and Minnan in regional collaboration and cultivate a new mindset for economic and trade collaboration between Hong Kong and Taiwan.

The Three Direct Links are a significant symbol of the moving of cross-strait economic relations onto a new pedestal. At the same time, they have resulted in Hong Kong, as an intermediary, facing the challenge of repositioning or replacement. Although the view that "direct links across the Strait will lead to Hong Kong's submersion" is a bit exaggerated, it should nonetheless be regarded as a wake-up call. This is particularly so as whether Hong Kong will ride on the crest of the wave of opportunities or be marginalized is entirely dependent on whether Hong Kong has a vision driven by a forward-looking mentality and is capable of making preparations and planning in response to the new developments while co-ordinating and strengthening collaboration between the three places across the Taiwan Strait.

President, insofar as regional development is concerned, the Yangtze River Delta Region has along been a major target for Taiwanese businesses in making investments on the Mainland. With the entry of more and more Taiwan-funded companies into the Mainland for investment, the SAR Government should strengthen collaboration with the PRD Region, in a spirit of helping each other and achieving complementarity of edge, to jointly attract more Taiwanese

businessmen to go to the PRD to invest and operate factories and, through exploiting Hong Kong's edge of having a sophisticated financial system and quality commercial and industrial services, attract Taiwan businesses to set up offices in Hong Kong to push forward economic development.

Meanwhile, mainland enterprises are expected to actively explore the Taiwan market and invest in Taiwan in the future. Given its experience of collaboration and exchanges with Taiwan over a long period of time, Hong Kong knows Taiwan better than the Mainland. Hong Kong should therefore seize the business opportunities and actively explore opportunities for establishing partnership with mainland enterprises for the joint development of the Taiwan market. Being the gateway for foreign businesses accessing the Mainland for development, Hong Kong should continue to fully exploit its edges in geographical location, experience and institution to perform its role as a bridge for the new stage of economic development across the Taiwan Strait.

Amid the keen competition resulting from globalization, commercial and business organizations of the three places across the Taiwan Strait have, over the years, been advocating enhanced partnership and the establishment of a Greater China economy with a huge market and strong economic power, so as to ward off external competition. With the economic development of the two places expected to move gradually toward normalization, the governments of the three places across the Taiwan Strait should proactively move forward towards this goal. The establishment of an office by the SAR Government in Taipei in October last year marked a good beginning for enhanced collaboration. From now on, the SAR Government should vigorously promote communication and exchanges between Hong Kong and Taiwan at both the governmental and societal levels, upgrade the level of collaboration, and establish good mutual relations. All this will facilitate Hong Kong in making progress under the new situation of cross-strait relations and actively performing its function.

Lastly, the SAR Government must get rid of the myth of "big market, small government". It must demonstrate its enterprise and enthusiasm in leading the entire process from collaboration to integration. After all, although government officials should preferably not appear on the front stage in promoting relations between Hong Kong and Taiwan, its role as a backstage facilitator is indispensable.

With these remarks, I support the motion.

**DR RAYMOND HO** (in Cantonese): President, early this month, Secretary for Constitutional and Mainland Affairs Stephen LAM made a trip to Taipei for visits and discussions over the subject of enhanced collaboration between Hong Kong and Taiwan. The visit carried great significance because it was the first official visit paid by officials of the SAR Government to Taiwan and completely accorded with the latest situation of the development of cross-strait relations.

In recent years, not only have cross-strait relations eased, both sides of the Strait have also developed towards economic integration. Though the role previously played by Hong Kong as an interchange will probably be subject to impact, the new conditions brought about by cross-strait relations have also brought Hong Kong new opportunities. In the new setting of cross-strait development, Hong Kong must reposition itself. Benefiting from its unique status under "one country, two systems", Hong Kong must strive to better exploit its effectiveness in promoting further integration across the Taiwan Strait by capitalizing on its edges on various fronts.

With the improvement in cross-strait relations, there will be a substantial increase in trade and flow of people and capital. The three places across the Taiwan Strait, including Hong Kong, should seize the opportunities, utilize their respective edges, and maximize their economic effectiveness. Apart from its geographical advantage, Hong Kong also has other advantages including a well-developed legal system, and clean and efficient public services. Hong Kong is an international financial centre as well as a major logistics and transport hub. At the same time, Hong Kong has also established a powerful global network supported by quality and high-level professional services. All these advantages and strengths can help attract Taiwanese businesses to continue to exploit Hong Kong as a platform for exchanges with the Mainland.

Given its connection with the PRD Region, Hong Kong still enjoys a certain geographical advantage. With the deepening of economic integration between Hong Kong and the PRD Region, Hong Kong will play an even more significant role in regional development. Against the unique background of "one country, two systems", Hong Kong will continue to play an intermediary role for both sides of the Strait and function as a bridge for economic and trade activities in the PRD and Guangdong region in particular. Collaboration between the three places across the Taiwan Strait will be conducive to enhancing the economic and trade vitality and competitive edge of the relevant region and

foster greater economic strength, thereby boosting the competitive edge of the whole region. As a result, residents within the region, including Hong Kong residents, will stand to benefit.

Apart from performing as an important bridge for cross-strait integration, Hong Kong should also take the initiative to enhance the scope of co-operation for both sides of the Strait, particularly in the areas of aviation and tourism. As regards the motion's proposal of conducting a study on fully opening up air rights on a reciprocal basis with the Mainland and Taiwan, for the purpose of raising Hong Kong's position as a regional and international aviation centre, I think it is worthwhile for the Government to conduct an in-depth study and follow up the proposal and include the relevant considerations in the studies and arguments relevant to collaboration between the airports in Hong Kong and the PRD. Hong Kong should also grasp the new developments of cross-strait relations by promoting a regional tourism route and, through suitably matching the development of cruise tourism in Hong Kong, attract tourists with different interests to come to the region for sightseeing and consumption. In fact, the same logic can also apply to various development projects in the Mainland or Taiwan.

Moreover, I also fully support studying the feasibility of promoting mutual recognition of professional qualifications among the Mainland, Hong Kong and Taiwan, for this can facilitate employment, mutual exchanges and mobility of relevant professions in the region. Our professional services have all along achieved a very high standard. If the relevant arrangement can be realized, our professionals will enjoy even more room for development. As a case in point, Hong Kong joined the "Washington Accord", whereby mutual recognition of professional qualifications is honoured, years ago, even earlier than such countries as the United States. Last year, Taiwan also joined the Accord. The Mainland is also expected to join the Accord next year to become one of its members.

President, I think that regional economic collaboration has become the mainstream trend of global economic development. Through the further development of cross-strait relations, Hong Kong should reposition itself, exploit its unique advantages and strengths, and strengthen collaboration among the three places across the Taiwan Strait, so as to maximize the benefits for the regional economy. I so submit.

**MR ANDREW LEUNG** (in Cantonese): President, I speak in support of Mrs Sophie LEUNG's motion.

The comments made by the Vice Chairman and Secretary-general of the Straits Exchange Foundation (SEF), Mr KAO Koong-lian, during his visit to Hong Kong in February this year have prompted us to reflect on the future direction of development for Hong Kong and Taiwan. According to Mr KAO, among the three places, namely Taiwan, Hong Kong and the Mainland, Hong Kong and Taiwan are the closest in terms of their economies, openness, flow of information and judicial systems. However, exchanges between the Governments and official exchanges are the most lacking between Hong Kong and Taiwan.

With the combined trade volume of Hong Kong and Taiwan, the latter being Hong Kong's fifth major trade partner, exceeding US\$30 billion last year, the two places have been maintaining very close economic and trade relations, and Taiwanese businesses have been using Hong Kong as a platform for developing external trade. In 2008, a total of 2 370 Taiwanese exhibitors participated in various exhibitions organized by the Hong Kong Trade Development Council (TDC). Approximately 5 000 Taiwan-invested enterprises have now been set up in Hong Kong to assist their parent companies with corporate management, capital deployment, purchasing and marketing. On 5 December last year, an office was formally set up in Taipei by the TDC in the hope of further enhancing collaboration between Hong Kong and Taiwan.

During his visit to Taiwan early this year, Secretary Stephen LAM established a quasi-government platform for promoting economic and trade collaboration between the two places. For better results, I agree with Mrs Sophie LEUNG's proposal of "setting up a high level inter-departmental task force to study and co-ordinate long-term development plans for promoting economic and trade co-operation among the three places". As regards the "Three Direct Links", Hong Kong may continue to perform its function and work by virtue of its unique economic and trade status. I hope that a study can be conducted in due course on the setting up of a government office in Taiwan.

President, I think Hong Kong can step up its efforts in relation to Taiwan in the following aspects in the future:

First, Hong Kong should collaborate with Guangdong Province in launching publicity targeting Taiwanese enterprises to lure them to use Hong

Kong as their base and exploit the opportunities provided by the Outline of the Plan for the Reform and Development of the Pearl River Delta for entry into Guangdong Province for investments in the PRD.

Second, Hong Kong and Taiwan should achieve complementarity of edge to pursue co-ordinated development and co-operation. For instance, Taiwan technology companies may exploit Hong Kong as a financial platform for financing, whereas Hong Kong industries may make use of Taiwan technology to develop high value-added products with technology content and pursue product research and development (R&D).

Third, Hong Kong should attract Taiwan's manufacturing industries, especially high technology and food manufacturing industries, to use Hong Kong as a production base for entry into the South China market by virtue of their "made in Hong Kong" identity and the edge enjoyed under CEPA.

Fourth, in the area of technological trading, Hong Kong, with its edge in providing intellectual property rights protection, financial support, marketing and sales services, as well as its free flow of information in the mainland and international markets, should strive to become a trading platform for Taiwan's R&D companies and the technological results achieved by Taiwanese universities.

Fifth, in the area of creative and entertainment industries, Hong Kong enjoys an edge traditionally in television and movies, and has been doing quite well in publicity. As creative industries are among the six new target industries announced by Taiwan's Executive Yuan recently, the Taiwan Government will inject substantial amounts of funds into developing movies, television programmes, design and the cultural and creative domains. At present, Hong Kong is used by Taiwanese movies and television series as a publicity platform. The Hong Kong International Film & TV Market is a case in point. I believe the SAR Government, with enhanced and focused publicity effort, can definitely arouse the interest of Taiwanese industries in collaborating with Hong Kong's creative industries and exploring the mainland and Asian markets.

Sixth, we should enhance publicity of our financial services, particularly listing and financing services, in Taiwan. In the past, most of the Taiwan corporates listed in Hong Kong were conventional technology/electronic/semi-conductor enterprises. Now, companies with



potential for listing in Hong Kong have gradually become more diversified. In particular, companies with the mainland consumption market concept seem to be eyeing food and beverage manufacturers in the mainland market such as "Tingyi" and "Want Want", as well as solar energy equipment manufacturer "Solargiga Energy". Being able to find Taiwan-funded enterprises a suitable financing platform will also help consolidate Hong Kong's status as a financial centre.

Furthermore, Hong Kong, Taiwan and Guangdong should enhance regional collaboration to attract investments by more overseas investors, thereby consolidating Hong Kong's services industries, such as the development of accounting, financial and even legal arbitration services.

Lastly, as exchanges and collaboration between the two places in such areas as infrastructure services, legal, accounting, logistics and works operation involve qualification recognition, the Governments of Hong Kong and Taiwan should help their respective professional bodies to enhance exchanges and understanding for the purpose of promoting the mutual recognition of qualifications between both places in a gradual manner.

President, the SAR Government needs to provide support for the inadequacies I mentioned above. I hope the Secretary can give consideration to all this. I so submit.

**MR ALBERT HO** (in Cantonese): President, the motion under debate today is the role Hong Kong can play with the implementation of the Three Links policy across the Taiwan Strait. In my opinion, our vision should not be confined merely to the economic development and relations among the three places across the Taiwan Strait. Instead, we should go to an in-depth level and look farther away by studying the interactive relationship between Hong Kong and both sides of the Strait brought about by the political change in this new setting.

Before conducting this in-depth exploration, I believe the President will also remember clearly that years ago, this Council passed a motion opposing the independence of Taiwan. During the debate, many colleagues, in their strongly-worded speeches, launched negative attacks at the ideology advocating Taiwan's alienation and independence. They even expressed strong support for the nation to take a tough stance in curbing such secessionist activities.

Although I understood why they should make such political comments, I commented, on behalf of the Democratic Party, the relations between Hong Kong and Taiwan and even the cross-strait relations. As Chinese citizens in Hong Kong, we may explore Hong Kong's role from a more positive angle. The Central Authorities have a very clear and immutable policy of opposing the independence of Taiwan. Taiwan is also aware of its political constraints. What it can do at most is to adopt the "three nos" policy, namely no unification, no independence and no military force.

Yet, what role can Hong Kong play? Hong Kong should examine ways to promote peaceful unification. In promoting peaceful unification, we may examine what favourable conditions we possess in achieving such developments. At that time, I pointed out unequivocally that, first, with both sides of the Strait having been ruled separately for nearly a century, they have existed and been governed under an extremely confrontational and contradictory atmosphere in recent decades. In order to establish the foundation for peaceful unification, I think it is most important to rebuild a national awareness and spirit for both sides of the Strait. This is the first point. In order to achieve this, mutual ties, exchanges and communications in various areas, such as social, cultural, economic and sports aspects, must achieve a certain level of integration. For the purpose of promoting efforts in these areas, the Three Links must be the first step to be taken. At that time, I pointed out in unequivocal terms that the Three Direct Links could promote such integration and then we could jointly rebuild a national awareness. Of course, having such an awareness and solidarity does not guarantee success. We must also establish a means to achieve unification, including a constitutional means acceptable to all. At that time, I clearly indicated that, according to the political concept developed by Taiwanese people to date, there can be no excuse for the lack of democracy, a constitutional system and the rule of law. Nevertheless, the Mainland can still be given time to pursue gradual development in these areas. Furthermore, it takes time to develop towards peaceful unification and for China to pursue democracy. Through synchronization, the two will be able to achieve their agreed goal ultimately.

From this angle, the "Three Direct Links" becomes even more meaningful. Hong Kong has all along been playing such a unique role. In particular, when cross-strait relations become tense, we have to do an even better job because of our role as a bridge. But it is most regrettable ..... although Mr Albert CHAN was talking about "old accounts", there is still a need to do the counting. We

cannot say that he is talking nonsense, for the Government was acting like a coward. At that time, the role played by the Government was very much like the tail of the Central Authorities. Today, the situation might still be the same, only that the tail might be wagging. At that time, the tail would not wag as it was hanging down. The Secretary might probably still recall that I once made a request to him on behalf of Taiwan's Mainland Affairs Council, not on behalf of myself. Some of the people in the Mainland Affairs Council would like to come to Hong Kong for exchanges, albeit knowing that their applications for entry would very often be rejected. But that did not matter. They merely wanted the Secretary to give them a performance pledge to notify them a couple of weeks before, so that they knew whether or not they could participate in the relevant events. Even though I made this request to the Secretary, he could still not give me such a pledge. So, how can he maintain a friendly relationship with them? What could they do if they knew that their applications were not approved only a couple of days before the date they were supposed to come to Hong Kong to participate in events or deliver speeches? I certainly understand very well the Secretary's difficulty because the decision-making power is not in his hands but in the hands of another ruling team.

However, the Secretary said today that we could take a proactive approach in dealing with a lot of things as the formation of a new setting can promote new developments. This is a good thing. I even support him in setting up an office in Taiwan as soon as possible. However, we are still worried that, despite the good relations today, the relations might roll back in the future. For instance, what if there is a change of government? Can the Secretary retreat under the table and act like a coward, as he did previously? For this reason, I think this policy should not change because of the relationship between the two Governments. Civilian, political and economic exchanges need to continue to develop. This is of the utmost importance to the long-term fostering of a national spirit for the entire nation.

What are Hong Kong's key advantages? As some colleagues have already talked about our economic advantages, I will not repeat them. There is one point which is taken very seriously by both sides of the Strait, that is, the rule of law, cleanliness, freedom enjoyed by civil society, and tolerance of social diversification. All these things are good. Even if any problems occur in future, mediation can still be initiated by us. I hope all this will not be affected by the political climate on both sides of the Strait.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, what is currently being shown is *A Tale of Two Cities*, that is, Hong Kong and Taipei. What I am referring to is certainly not the masterpiece written by Charles DICKENS, namely *A Tale of Two Cities*. While one is about revolutionaries, the other is about reactionaries. Furthermore, neither of them is about asking someone to be beheaded on behalf of others. But still, I remember that there is one more book bearing the same name. A Russian revolutionary went to London in search of his comrade. The next morning, they both went to the top of a hill, and the comrade pointed to a place telling him it was their London. The revolutionary exile was of course living in a slum. He meant that there were actually two places bearing the same name, London. While one was inhabited by the rich, the other was by the poor.

Actually, the same goes for the city of cities. I have heard a lot of people blow their own trumpet, saying they have seen like this and that, as if they were a semi-official organization for united front and acting as the second echelon of the business sector in lobbying Taiwan to co-operate, bragging about the "big guns" they have met, who are not "big guns", and the beauty of certain places.

I have been to Taiwan before, but it was an entirely different Taiwan to me. Of course, I enjoy having fun. Sometimes, I would go out for a drink or visit some places for entertainment. However, the Taiwan I knew was totally different. What has Taiwan gone through? As with Hong Kong, it is facing the problems of having a hollow industrial structure and impoverished industrial workers. Now, we are building another platform to enable Hong Kong to become the only place among the three places forming the Greater China to practise fraud capitalism or casino capitalism. I think this is known to everyone. I have also mentioned this many times before. Even the President would find this boring. What is the Government in China or the Mainland going to do? It wants to turn Hong Kong into a place where capital from all over the world can come for investments. Members would know by just looking at the fluctuations in stock prices. While capital from Taiwan can come here for investment, capital from the Mainland can be invested in Taiwan, too. The rationale is very simple. When Hong Kong can issue bonds and become a bond market, and when Beijing can issue national bonds, that would mean capital from Taiwan can be invested here, too. When our red chip stocks can be listed in Taiwan in the form of depository receipts, endless forms of financial speculation thus derived could occur in Taiwan, or *vice versa*. This will give rise to another

phenomenon, or the second episode of *A Tale of Two Cities*, in which there will be full financial speculation and deepening of the wealth disparity. The deepening will become very intensive and extensive because the small bourgeoisie and the middle class have no money to gamble and engage in property speculation. Even if they struggle to keep their jobs, they will probably become even worse off. This is relative poverty — you should understand what I mean even if others might not. Absolute poverty will occur in the wake of a financial tsunami or financial earthquake. This is precisely the situation currently faced by Taiwan.

A friend of mine focused all his attention on speculation after losing his job. He once asked me the reasons why Taiwan's stock market could have fluctuated so sharply and experienced "double bottom", "quadruple bottom", and so on. In the beginning, he found all these fluctuations very interesting. Sometimes, he would even buy me a drink. But now, I had to buy him a drink instead because, to put it somewhat crudely, he has suffered a total loss. His little capital has been hard earned. He thought he had better engage in speculation, just as others do, for he had lost his job or wages were just too low — but to me, he was actually killing himself. With the real estate market spiralling continuously, real estate has already become an important asset of stocks. As a result, real estate will definitely continue to surge. The Link REIT is a case in point. When I visited Wo Che Estate in Sha Tin this morning, the people there joined the chorus of criticism against The Link REIT.

Honourable Members, what I saw was a different Taiwan, a place where the unemployment rates were rising. I was joined by two of my colleagues and a group of young members from the Youth Labor Union 95 when I visited a very small flat there. The Union was fighting for a minimum wage of NT\$95, or approximately HK\$25, which is just a very small sum of money. Honourable Members, the inferior city of the two cities is facing increasing poverty, whereas the superior one, despite its shrinking size, has more and more money. What am I talking about? I mean I cannot possibly echo Members' views.

The second point concerns the political platform. Fathoming the leadership's thoughts, our officials treat dirt as money when others treat money as dirt. So long as there is money to make, they will please a certain kind of people, even at the expense of their own integrity. They will be extremely pleased at the sight of money. As they are so determined to absorb money from

others that they are even prepared to introduce Islamic securities business into Hong Kong, why can the new Taiwan dollar not be allowed? Today, he is talking about humanity, justice and morality, but he treated others in that manner years ago. How can he talk about cultural or historical exchanges? Everything is about money.

President, the original youth version of Taiwan's Youth Labor Union 95 is like this, but I cannot read it out because this is what was actually said in Taiwan, "馬上好罔，青年'乜乜'"<sup>2</sup> (a Member said "young people 'pok kai (仆街)" in Putonghua). What they mean is, due to a lack of a way out after MA Ying-jeou has taken office, Taiwan has to bow to financial capital from the Mainland. Moreover, Taiwan has a poverty problem because its assets and capital have been wiped out. My future is a nightmare. This is the Taiwan known to me — it is a different city and plight of a different type of people. How can I curry favour with those in power and proudly proclaim that I am working in the interest of Greater China here today, as Honourable Members do?

(Mr LEUNG Kwok-hung displayed a wooden board)

**MR IP KWOK-HIM** (in Cantonese): President, in May this year, Taiwanese singer CHYI Yu performed jointly with the Hong Kong Chinese Orchestra for the first time in two concerts commemorating Mother's Day at the Hong Kong Cultural Centre. As the finale to the concert, CHYI Yu sang her first hit, "The Olive Tree", and there was a thunderous applause when she finished.

Today, "The Olive Tree" has become a collective memory for the people of the three places across the Taiwan Strait. Late last year, the "Three Direct Links", namely direct maritime, air and postal links, were formally implemented across the Taiwan Strait. Undoubtedly, Hong Kong's role as an intermediary will be played down, and this would affect, to a certain extent, Hong Kong's re-export trade, tourism and shipping industry. However, the DAB believes that Hong Kong still enjoy some advantages in other aspects. As long as it is able to grasp the opportunities, Hong Kong will still be able to play a key role in cross-strait relations.

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<sup>2</sup> It describes how young people are at a loss as to what they should do after MA Ying-jeou has taken office.

Let me cite the cultural and creative industries as an example. Despite the gradual improvement in cross-strait relations, exchanges between the two sides of the Strait, especially in films, songs or other arts performance events, are still subject to a lot of constraints, and only conditional exchanges are permitted. Insofar as films are concerned, the mainland and Taiwan authorities have agreed that only an annual quota of 10 movies can be shown in each other's cinemas. During the closing ceremony of the first cross-strait film festival in Taiwan yesterday, even mainland director FENG Xiaogang publicly called for a relaxation of the film quota across the Taiwan Strait expeditiously. The director said he felt that the limitation on Taiwanese and mainland movies should be relaxed as mainland movies are not subject to any limitation in Hong Kong.

Given that Hong Kong has a large pool of cultural and creative talents, coupled with its liberal cultural policy and the construction of the Art and Culture Belt in West Kowloon, Hong Kong has almost all the conditions, in terms of both software and hardware, to become a platform for cross-strait cultural exchanges. Given its status as an international city, Hong Kong can also function as a window for both sides of the Strait to engage the world.

President, the SAR Government should formulate a long-term policy to vigorously develop Hong Kong into a platform for cultural and art exchanges across the Taiwan Strait and launched initiatives in this respect to enable cultural and arts events to integrate with the tourism industry so as to attract people on both sides of the Strait to come to Hong Kong to appreciate cultural and arts performances, thus bringing new momentum to Hong Kong economy.

In fact, we can invite outstanding arts bodies from the Mainland, such as the National Ballet of China, China National Peking Opera Company, Zhejiang Xiaobaihua Yueju Opera Company and Shanghai Kunju Opera Troupe, to perform in Hong Kong, so that the people of Taiwan will be able to appreciate brilliant arts performances by merely taking a flight of an hour or so to Hong Kong without the need to travel all the way to Beijing or Shanghai. In this way, they can really enjoy the convenience of "leaving Taiwan on a morning flight and coming back on an evening flight". On the other hand, we can, in a similar fashion, invite Taiwan's outstanding arts troupes, such as the Cloud Gate Dance Theatre, The Charm of Chinese Chamber Music and Lan Ling Theatre Workshop, to come to Hong Kong to perform, so that the general public of the Mainland can have a chance to appreciate Taiwan's local arts and go shopping and enjoy Hong Kong's fine food during their sightseeing trips to the territory.

We can also organize events, such as cross-strait film festivals, cross-strait Kunju performances and cross-strait opera galas, to attract people from both sides of the Strait to come to Hong Kong.

The SAR Government's efforts to promote traditional and contemporary cultural highlights on both sides of the Strait to facilitate exchanges in Hong Kong can not only achieve better understanding between the general public on both sides of the Strait, but also upgrade the standard of Hong Kong's cultural industry.

In fact, the economic benefits generated by the cultural and creative industries are way beyond our imagination. When the Japanese television drama "Oshin", which I think Members have probably watched before, was shown in Egypt, it was so popular that the people in Egypt became interested in purchasing Japanese products, including refrigerators, television sets, washing machines, and so on. Years ago, there was also a Korean drama fever in Hong Kong. As a result of the Korean television series "Jewel in the Palace", which I think Members probably still recall, Hong Kong was swept by a Korean fever. Even Korean fashion and goods were coveted by Hong Kong people. Therefore, I hope Hong Kong-produced movies or television series can also take overseas countries by storm.

President, I so submit.

**MR WONG YUK-MAN** (in Cantonese): President, when my party comrade, Albert CHAN, criticized the Government in his amendment for changing its attitude from arrogance to subservience, he was, of course, referring to the Constitutional and Mainland Affairs Bureau headed by Stephen LAM. "Changing of attitude from arrogance to subservience" is in fact the same as "trimming the sail to the winds", right? The Chinese idiom "qian ju hou gong (前倨後恭)", meaning "a change of attitude from arrogance to subservience", originates from a historical story, which I think Members might remember. When SO Qin of the East Chou period toured various states for the first time to lobby the states of Qi, Chu, Yan, Zhao, Han and Wei to unite to fight against Qin, nobody took notice of him. When SO Qin returned to Luoyang, he had nothing to eat, so he begged his sister-in-law for a meal, who refused to prepare a meal for him. Afterwards, SO Qin decided to study hard. When he visited various states for a second time, he eventually succeeded in lobbying six states to



amalgamate to form a vertical alliance to fight against Qin. I think Members must have heard this story before. Because of his fame and fortune, when SO Qin returned to his hometown, he was greeted, as if he were a deity, by his sister-in-law and the people there. As a result, he asked, "Why were they so arrogant and are behaving so humble now?"

You are behaving in exactly this manner, right? I have no comments about those amendments or the original motion. Regarding enhancing exchanges between Hong Kong and Taiwan, frankly speaking, we in the League of Social Democrats (LSD) did put down in black and white a couple of years ago that we advocated that cross-strait negotiations be reopened and substantial cross-strait exchanges between the Mainland's Association for Relations Across the Taiwan Straits (ARATS) and Taiwan's Straits Exchange Foundation (SEF) be expedited. In 1995, Foreign Minister of China QIAN Qishen delivered "QIAN's Seven-point Principles". How can you, as a post holder, not recite "QIAN's Seven-point Principles"? Have you done everything as stated in "QIAN's Seven-point Principles"? Have you done everything as set out in "QIAN's Seven-point Principles"? In particular, the seventh principle specifies to the effect that "Taiwan's existing organizations and personnel in Hong Kong can be retained. However, they must, in action, strictly abide by The Basic Law of the Hong Kong Special Administration Region of the People's Republic of China, not contravene the principle of "one country, two systems", and not engage in activities which will compromise Hong Kong's stability and prosperity and those which do not match their nature as registered. We encourage and welcome them to contribute to the nation's unity and maintaining Hong Kong's stability and prosperity."

It seems that you have always acted against the wishes of QIAN Qishen. Nevertheless, QIAN Qishen has already stepped down, right? Frankly speaking, up till now, even if the Hong Kong SAR Government is to have any official contact with Taiwan, it must not overstep the boundary of "QIAN's Seven-point Principles". "QIAN's Seven-point Principles", however, is not law. Neither is there any article in the Basic Law stipulating how the relations between Taiwan and Hong Kong are meant to be.

I recall that on 10 October 1997, three months after the reunification, I published a magazine called "Mad Dog Weekly". The headline of the cover story of the first issue read, "Kuomintang's impotence — WONG Yuk-man hoists a flag". A Kuomintang flag was even enclosed in the magazine in order to test

the bottomline of freedom of speech in the HKSAR because when Hong Kong was under British rule before the reunification, Chinese people in Hong Kong enjoyed freedom in celebrating the National Day of the People's Republic of China as well as the National Day of the Republic of China. While there are two Chinas today, there might be only one China tomorrow, as with the case of Germany, right? This is not only the aspiration of many Chinese people in Hong Kong, but also the reality.

Later, in 2002, I presented this magazine again when I confronted Mrs Regina IP with questions — As Secretary for Security at that time, she was responsible for promoting the enactment of legislation to implement Article 23 — I think the Secretary still remembers that one of the offences in the national security legislation was about seditious publications. This was the publication I was holding at that time when I confronted the then Secretary for Security. As it was me who discussed with her Article 23 in the first public forum held in the University of Hong Kong (HKU), I had too many intricate ties with her because of the personal grudges we held towards each other. I can tell Members that, frankly speaking, I had made a little contribution to the heated debates subsequently on Article 23 because it was me who, during the two public forums held in universities, caused her to be slated by newspapers for her comments that Hitler was elected by direct election. The forum I am referring to was the one held in the City University of Hong Kong. I remember very clearly that James TO was present, right? I have publicly debated with Regina IP, only that I have never debated with you. I asked her whether the magazine and the headline should be considered as an attempt to separate China. I also asked the Secretary in the forum held in the HKU whether the establishment of the Soviet Republic of China in Ruijin, Shanxi, should be seen as an act of separating China? There were no answers to the questions.

After the reunification, the SAR Government in Hong Kong has been imposing obstacles of all sorts, as well as under various pretexts, to deter the entry of some people into Hong Kong. I remember it all too well that CHENG An-kuo was managing director of the Chung Hwa Travel Service in 1999. Later, the Travel Service was put under the Mainland Affairs Council by the Ministry of Foreign Affairs. However, as everyone knows, the Mainland Affairs Council was a government department. CHENG An-kuo, being a representative of the Taipei authorities in Hong Kong, made some not too appealing comments in RTHK's Letter to Hong Kong at that time. In fact, CHENG, an opponent of LEE Teng-hui, was commenting on LEE's "two states theory". Anyway, when

you heard of LEE's "two states theory", you would overreact and even plan to get tough with the RTHK, right? Then, when his employment visa was due to be renewed, the Government tried to put obstacles in his way by rejecting his visa application. You really deserved it. In the end, CHANG Liang-jen was appointed to succeed as the representative of Taiwan. I have consulted these few people, who are acquaintances of mine, of what actually happened. They would not slander you. How can you promote relations between Hong Kong and Taiwan? These organizations have been treated as underground organizations, right? Now, it is no longer the case, as I have put a lot of accounts on record. Nevertheless, time is up. I only wish to point out that we really do not appreciate such a change of attitude from arrogance to subservience, right? Now the Secretary is heading for Taiwan, but before he visits Taiwan, he has already been addressed by the radio and television as "Eunuch LAM" or a "human recording machine". The origin of these titles, which were invented by the LSD, has not been acknowledged, though (*The buzzer sounded*) .....

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, your time is up. Does any other Member wish to speak?

**MR PAUL CHAN** (in Cantonese): President, late last year, the "Three Direct Links" across the Taiwan Strait were initiated. Following this, HU Jintao, General Secretary of the Communist Party of China, announced his "Six-Point Proposition" to Taiwan, saying, "The two sides may sign a Comprehensive Economic Co-operation Agreement and establish an economic co-operation mechanism unique to the two sides across the Taiwan Strait." This opened a new chapter in the joint economic development across the Taiwan Strait. However, as a result of this new situation, Hong Kong has gradually lost its unique status, advantage and role as the "middle-man" between the two adversaries. It is now battered by some immediate impacts and uncertainties. One example I can quote is the case of the Hong Kong International Airport.

Our airport enjoys a unique and excellent geographical advantage, with totally 85 airlines operating flights to and from 150 places in the world, including 40 cities in the Mainland. During peak periods, aircraft movements amount to 57 flights per hour. According to the statistics for last year, Hong Kong was one of the busiest international airports in the world, with its passenger and cargo

turnovers standing respectively at 48.6 million passenger trips and 3.6 million metric tons. We Hong Kong people have always taken pride in this advantage.

But the economic development across the Taiwan Strait has changed this advantage of ours. We are losing fast our position as a hub of cargo re-export and passenger transport, and our air passenger and air cargo volumes have also dropped. According to statistics, the passenger and cargo turnovers of the Hong Kong International Airport have both declined as a result of the onslaught of the financial tsunami. In the first quarter of this year, they dropped respectively by 7.8% and 19.8%. But the re-export volume between Hong Kong and Taiwan has dropped more than 30%, thus indicating that the impacts of the "Three Direct Links" on Hong Kong have already surfaced.

Another example is the tourism industry. In January, the entry restrictions on Taiwan people were relaxed. The quota of two applications for "iPermit" within 30 days was removed, and the period of stay on each landing was extended from 14 days to 30 days. Subsequently, Taiwan also extended the duration of stay for Hong Kong and Macao residents entering Taiwan, from 14 days to 30 days. But the statistics supplied by the Hong Kong Tourism Board indicate that despite the relaxation of entry restrictions, the number of visitors from Taiwan in February actually dropped 17.3%, rather than showing any increase. There was also a drop of nearly 10% when compared with the corresponding figure last year. In other words, the relaxation of entry restrictions has not been very useful in inducing more visitors from Taiwan.

Given the new political situation across the Taiwan Strait, the success of Hong Kong in turning the crisis into an opportunity and making itself a co-winner of the "Three Direct Links" must depend on whether the Government can proactively identify any development opportunities in the process. In this connection, I only wish to raise three points. First, I think the Government of the Hong Kong Special Administrative Region (SAR) should actively promote the drawing up of an arrangement with Taiwan for the full avoidance of double taxation. This can help Hong Kong become a springboard for mainland enterprises intending to invest in Taiwan. This will be a very great business opportunity under the new political situation.

Second, efforts should be made to enhance Hong Kong's status as the best financing platform for the two sides across the Taiwan Strait. Some Honourable colleagues have already mentioned this issue, and I only wish to add three related

points here. The first point is that we should continue to encourage and induce Taiwan-funded enterprises in the Mainland to apply for listing in Hong Kong. The second point is that we should also encourage more Taiwan enterprises to apply for listing in Hong Kong. The third point is that we should explore how we can encourage Hong Kong companies and their Taiwan counterparts to make the stock exchange of the other side their second listing venue. This will greatly promote the development of our professional services.

Third, I propose to build up a strategic alliance comprising cities in the three places across the Taiwan Strait. This strategic alliance should include Hong Kong, Taiwan, the Pearl River Delta and even Fujian. The aim of this strategic alliance is to encourage port calls by international cruise vessels and form an international cruise market in the region. In this way, although we may suffer some losses under the new situation, we will to a certain extent find greater room for development elsewhere.

President, I so submit.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mrs Sophie LEUNG, you may now speak on the seven amendments. You have up to five minutes to speak.

**MRS SOPHIE LEUNG** (in Cantonese): President, since it is getting very late now, I will not speak for a long time. I only wish to say a few words on how I look at the several amendments.

I am very grateful to the several Members who have proposed amendments to the motion. I am the mover of the motion. I always hope that Members can get along peacefully, that is, forge a consensus in a harmonious manner. I regard this as a matter of the utmost importance. When it comes to the "Three Direct Links" in particular, I think there is all the more reason for us to adopt the following mentality. If the "Three Direct Links" really work, we must of course try to enhance our role in the process. But we must at the same time realize that

if the "Three Direct Links" cannot work either in theory or in practice, then whatever ideals and ambitions one may have, all efforts will be of no avail. This is my attitude towards the various amendments.

The respective amendments proposed by Mr Tommy CHEUNG, Mr WONG Ting-kwong and Mr IP Wai-ming all mention the need for strengthening the commercial and trade ties between Hong Kong and Taiwan, consolidating Hong Kong's economic and commercial role in the development of the three places across the Taiwan Strait and enhancing the advantage enjoyed by the Hong Kong International Airport in terms of passenger and logistics flows. These proposals are in line with the ideas of my original motion and can add to its practicability. I therefore agree to all these amendments.

Dr Priscilla LEUNG's amendment proposes to delete my point on "mutual visa-free access between Hong Kong and Taiwan". But since she stated in her speech that she would support mutual visa-free access between Hong Kong and Taiwan, I will also accept her amendment.

Mr Alan LEONG's amendment proposes to explore the feasibility of promoting non-government exchanges between Hong Kong and Taiwan. I naturally support this idea. But his amendment also proposes to expeditiously set up an office of the Hong Kong Special Administrative Region in Taiwan. I must say that I have some reservations about this proposal. We all want to improve the existing links, especially in respect of non-government exchanges. I therefore think that the addition of any contentious elements may not necessarily give us any better insight regarding the "Three Direct links". I therefore have some reservations about Mr Alan LEONG's amendment.

Besides, the original intent of my motion today is to propose more possibilities of co-operation and exploration among the three places across the Taiwan Strait in the areas of logistics development, economic progress, cultural ties and non-government exchanges. But the amendments proposed by Mr Albert CHAN and Mr Fred LI both deviate from this original intent. I certainly understand what they have in mind, but I do not want to dwell on any political disputes. As I have mentioned, I only hope that whenever any links are possible, we can do as much as possible. This approach is better and more in line with the intent of the original motion. Therefore, I am sorry that I will vote against the amendments of these two Members.

Lastly, it is indeed true that the "Three Direct Links" were launched only as recently as December last year, but I still hope that there can be faster progress in the exchanges among the three places across the Taiwan Strait. The Hong Kong Government must continuously take stock of the situation and implement any necessary measures in a timely manner. We should not dwell on things in the past. I hope that all of us can grasp this opportunity and explore how best to develop Hong Kong's existing advantages. Thank you, President.

**PRESIDENT** (in Cantonese): It is now 9.37 pm. I now call upon the two Secretaries to speak for the second time. After they have finished speaking, I shall adjourn the meeting until tomorrow morning.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I am very grateful to Members for offering so much precious advice on Hong Kong-Taiwan relations, and I wish to give a further reply on several areas.

If Members look back at the past one year or so from 2008 to 2009, they will certainly notice that cross-strait relations have been upgrading indeed. The Association for Relations Across the Taiwan Straits (ARATS) and the Straits Exchange Foundation (SEF) have held several meetings, leading to a new situation marked by positive interaction across the Taiwan Strait (the Strait). A notable topic in 2009 is whether the two places across the Strait can reach a consensus on a framework agreement on economic and trade co-operation. The two places across the Strait are conducting studies in earnest, in the hope of finding out how co-operation in this regard can be stepped up. We in the Government of the Special Administrative Region (SAR) naturally welcome all this, and we also hope that Hong Kong can continue to play an active and constructive role in the process.

Dr Raymond HO, Mr Andrew LEUNG and other Members have all emphasized that in the course of upgrading the economic and trade co-operation of the two places across the Strait, Hong Kong must actively promote the interoperation of the professional services and service sectors in Hong Kong and Taiwan and also their mutual recognition of qualifications and co-operation. We naturally agree to this general direction. We also note that our development of professional services over the past decades and position as the most successful

services centre in Asia are regarded very highly by Taiwan. We know that for this reason, it also hopes to enhance its co-operation with Hong Kong in these areas.

We can see that there are now two "plates", and we can actually try to merge them into one. On the one hand, CEPA has been in force since 2003, and Supplementary Agreement V and Supplementary Agreement VI to CEPA have also been implemented. The service sectors and professional services in Hong Kong can now access Guangdong on an early and pilot basis. Our aim is to gain a foothold in Guangdong and then expand the service sectors in Hong Kong to the other eight provinces in the Pan-Pearl River Delta (Pan-PRD). This will mean that the market size for Hong Kong's service sectors will be enlarged from 7 million people, then to 50 million people in the PRD and eventually to 400 million people in the Pan-PRD.

However, in this process, we will not forget Taiwan, one of our significant trade partners. A trade partnership is not confined to goods. It should also cover professional services and service sectors. This is the second "plate". What I mean is that the Central Authorities have drawn up a policy whereby some measures will be implemented on an early and pilot basis for Taiwan and the west coast of the Strait, that is, Fujian Province. Therefore, if Hong Kong can continue to build up an interface with Taiwan's service sectors, it will become a significant centre in the whole region comprising the four "plates" of Hong Kong, Taiwan, Guangdong and Fujian. We will make efforts to promote the development in this direction.

Mr IP Wai-ming, Mr WONG Ting-kwong and some other Members have made special mention of promoting the financial services. Since Hong Kong has been an open economy and an international financial centre, Taiwan enterprises have all along been making use of the Hong Kong financial market. Between January 2008 and April 2009, four Taiwan companies made offers for subscription in Hong Kong, raising as much as HK\$13.9 billion in total. As at the end of April 2009, 57 Taiwan companies with a total market worth of HK\$260 billion were listed in Hong Kong.

Such are not our only efforts. In May this year, the Hong Kong Securities and Futures Commission (SFC) and the Taiwan Financial Supervisory Commission exchanged a Side Letter which allows the cross-listing of index-tracking exchange traded funds (ETFs) in Hong Kong and Taiwan. At



present, 16 ETFs listed in Hong Kong and 11 ETFs listed in Taiwan are eligible to apply for cross-listing under the conditions set out in the Side Letter exchanged between the two financial supervisory bodies. The SFC has received the first application. We hope that the first cross-listings of Hong Kong ETFs and Taiwan ETFs can take place as soon as possible.

Mr Alan LEONG, Mr Paul CHAN and some other Members have discussed the importance of drawing up arrangements for the avoidance of double taxation. Hong Kong has always been making positive efforts to establish a network of agreements and arrangements on the avoidance of double taxation among its major trade and investment partners. The SAR Government will periodically review its trade relationship with different places and explore the need for drawing up agreements and arrangements on the avoidance of double taxation with them. There are frequent economic and trade transactions between Hong Kong and Taiwan, so we will actively explore any feasible arrangements for the avoidance of double taxation for both places.

Mr Tommy CHEUNG and other Members encourage us to set up an office of the SAR in Taiwan. We have already taken the first step — the establishment of an office by the Hong Kong Trade Development Council in Taipei. The SAR Government will close follow any further development of cross-strait relations. Conditions and circumstances permitting, we do not rule out the possibility of establishing an official or semi-official organization in Taiwan.

Dr Priscilla LEUNG and other Members are especially concerned about landing visas and visa-free arrangements. In response, I wish to emphasize that we always welcome the people of Taiwan to visit Hong Kong for business and sightseeing purposes. And, we also welcome official representatives of Taiwan to come here for more exchanges and co-operation. For these reasons, since January this year, the Immigration Department has relaxed the arrangements for Taiwan residents intending to visit Hong Kong. In the past, applications for "iPermit" were subject to a quota. But since January, the quota has been removed, and the duration of permitted stay is now 30 days on each landing. In April, a new arrangement was also put in place, whereby holders of a valid "Mainland Travel Permit for Taiwan Residents" (MTPTRs) which bears a valid entry/exit endorsement for the Mainland may also visit Hong Kong and stay for up to seven days. This is almost a kind of visa-free arrangement because all holders of valid MTPTRs may visit Hong Kong whenever they like.

Several Members have expressed concern about our co-operation with the Chung Hwa Travel Service and other Taiwan organizations in Hong Kong. I can tell Members that over the past few years, the co-operation in this regard has been enhanced step by step. Many efforts have been made to facilitate the operation of the Chung Hwa Travel Service in Hong Kong. For example, on some occasions in the past, when some Taiwan political personalities visited or transited Hong Kong, arrangements were made for the staff of the Chung Hwa Travel Service to meet them in the airport VIP lounges. In cases where the top echelons of the SAR Government, such as the Chief Executive, Secretaries of Departments and Bureau Directors received and welcomed political personalities and visitors from Taiwan, the General Manager of the Chung Hwa Travel Service and his staff were also invited to take part in the meetings. It can thus be said that there has been increasingly positive co-operation on all fronts.

In response to Mr WONG Yuk-man's comment that the SAR Government has not made adequate efforts to foster co-operation with Taiwan, I must emphasize that we are always prepared to heed any criticisms. But I must also tell Mr WONG Yuk-man and Members that one must wait for the right opportunities to engineer changes to the overall situation. And, in this connection, the SAR Government has fully grasped all the opportunities over the past few years. This Government has achieved far more progress in Hong Kong-Taiwan relations than any previous Governments. During the term of the third SAR Government, for the first time over all these years, a semi-official organization, the Hong Kong Trade Development Council, set up an office in Taipei. It was also the third SAR Government that invited the municipal governments in Taiwan to send an official delegation to Hong Kong to participate in the first Hong Kong-Taiwan Inter-City Forum. It was also the third SAR Government that grasped the right opportunity, reached an agreement with Taiwan, and announced jointly with the Mainland Affairs Council of Taiwan the establishment of a bilateral economic and trade co-operation committee. Appropriate arrangements have also been made for top officials from both sides to launch interaction, exchanges and co-operation. In future, while cross-strait relations can be handled by the ARATS and the SEF, Hong Kong-Taiwan relations can be dealt with on the platform of this bilateral committee.

Mr Albert HO has made it a point to comment that the Government should not focus solely on economic and trade co-operation, and that efforts must also be made to tackle deep-level issues. In response, I wish to draw Mr Albert HO's attention to one point. It is indeed true that as a start, we have just sought to

launch and step up our economic and trade co-operation with Taiwan, but such co-operation actually covers a very wide range of issues. Such co-operation is not confined to trade, service sectors and tourism. There is also the possibility of cultural co-operation. Having made a start in economic and trade co-operation, we hope to establish a high-level relationship of interaction, co-operation and mutual understanding with the Taiwan authorities and municipal governments.

President, in brief, I must say that Hong Kong and Taiwan are marked by their respective historical backgrounds. The issues of Hong Kong, Macao and Taiwan are all the legacies of history. The cases of Hong Kong and Macao have been fully and properly tackled. Since their unifications in 1997 and 1999 respectively, they have seen more and more room for interaction and co-operation with the Mainland.

We welcome the fact that over the past few years, especially over the past one year, Taiwan and the Mainland have been able to establish a sound relationship of interaction, thus offering Taiwan residents and compatriots many more opportunities. We believe once the work has commenced, it will not stop; not only this, it will even be upgraded over time. We also believe that the interaction among the four places across the Strait will only become more and more positive, thus generating a greater number of opportunities. I therefore very much welcome Mrs Sophie LEUNG's motion today. I am also grateful to Members for presenting so many valuable opinions and specific proposals for us to follow up in the future.

With these remarks, President, I support the motion.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):

President, I wish to thank Members for expressing so many views on aviation in general and whether our competitiveness in aviation services will be lost after the implementation of the Three Direct Links in particular. Let me now give a brief reply.

Let me begin by saying a few words on the aviation links between Hong Kong and the Mainland. The Mainland and Hong Kong Air Services Arrangement (the Arrangement), which forms the air service framework between

Hong Kong and the various flight destinations in the Mainland, was signed in 2000. Since then, the SAR Government and the Central Government have been reviewing the Arrangement from time to time and liberalizing the air freedom rights between the Mainland and Hong Kong. Following several reviews, the present arrangements are already quite close to full liberalization.

In regard to air passenger transport, there are 56 mainland destinations with flights to and from Hong Kong under the Arrangement. With the exception of seven busy destinations, all the remaining 49 destinations have seen the removal of flight capacity restrictions. With respect to air freight, capacity restrictions on all the flights between the 56 destinations and Hong Kong have been totally lifted, so that airlines can adjust their numbers of flights in response to market demand. This means that flight capacity restrictions are no longer a bottleneck of the development of flights between Hong Kong and the Mainland. Airlines can increase their existing numbers of flights or open up new destinations in the light of market demand at any time they see fit. There are nearly 40 destinations in the Mainland with direct flights to and from Hong Kong. The number of passenger and cargo flights per week is about 800, representing roughly 28% of the total flights of the Hong Kong International Airport (HKIA) and constituting a major segment of our aviation market.

To ensure the long-term development of our aviation industry, the SAR Government will continue to hold discussions with the Central Government on liberalizing the remaining flight capacity restrictions under the Arrangement, with a view to eventually achieving total liberalization.

In the case of Taiwan, for historical reasons, the air services between Hong Kong and Taiwan are specified under the commercial arrangements signed by the flag carriers of the two places. The SAR Government is not a party to any such commercial arrangements. However, we understand that the flag carrier of Hong Kong has been maintaining contact with the flag carrier of Taiwan, so that commercial negotiations can be conducted to review and update existing arrangements whenever necessary. The flights between Hong Kong and Taiwan constitute a highly developed market, and the commercial arrangements between the flag carriers can provide sufficient room for them to respond to market demand. The flag carriers of Hong Kong and Taiwan currently operate more than 300 passenger flights and 30 all-cargo flights weekly between the two places. But the SAR Government still hopes that the two flag carriers can

further expand their service arrangements, so as to increase flight capacity and create greater room for the participation of more operators and interested airlines. In this way, new routes can be offered, thus giving travellers and consignors more choices. The development of close communication between Hong Kong and Taiwan should be able to provide positive support for expanding the air service between the two places. We will take steps to draw up a framework for the long-term development of the air service between Hong Kong and Taiwan at an appropriate time.

For the sake of consolidating and upgrading Hong Kong's status as an international and regional aviation hub, the linkage of the HKIA with the global aviation network is of very vital importance. To this end, the SAR Government has been actively seeking to expand the air service arrangements with its aviation partners, so as to support the development of our aviation industry. We have already concluded bilateral civil aviation agreements with 59 countries. In the last financial year, we held negotiations with 13 aviation partners and expanded our air service arrangements with them, with a view to creating the conditions necessary for the market entry of more airlines. The reciprocal flights between Hong Kong and 19 international aviation partners are no longer subject to any flight capacity restrictions. All these are the fruit of the positive and liberal aviation policy we have upheld firmly over all these years.

We will continue to hold negotiations and reviews on air freedom rights with our aviation partners. We will seek to increase aviation flight capacity under the principle of mutual benefit, so as to meet the air service demand of the aviation industry, travellers, the air freight industry and other persons.

By describing all the above developments, I mean to point out that the HKIA is a major hub airport between the world and the region. It has a well-developed network of international flights, and it is also one of the gateways through which travellers and air cargoes from all over the world enter or leave the Mainland. With the development of the Pearl River Delta (PRD), the international flight network of the HKIA and the mainland flight network of other airports in the PRD have led to the emergence of a complementary partnership. For this reason, we will actively promote the co-operation of the HKIA with other airports in the PRD, with a view to making it more convenient for travellers to move between the Mainland and major cities of the world through Hong Kong.

The five major airports in the PRD, that is, the airports in Hong Kong, Macao, Zhuhai, Shenzhen and Guangzhou, have been maintaining communication and co-operation in many different ways. And, they have also been trying to identify mutually beneficial co-operation opportunities in respect of their development directions and needs. The five major airports conduct joint conferences from time to time to exchange views on issues of common concern. For example, in the PRD A5 Forum held in Guangzhou in March, in-depth discussions were held on the part on airport co-operation in the Outline of the Plan for the Reform and Development of the Pearl River Delta (2008-2020).

The co-operation between the airports in Hong Kong and Shenzhen is especially well-developed. The SAR Government and the People's Government of Shenzhen Municipality set up the Task Force on Airport Co-operation last year for promoting studies on the feasibility of a rail link between the airports of the two places and their business co-operation. The airports in the two places have put in place measures to facilitate the transfer of transit passengers between them. As for the rail link, the Task Force has established the feasibility of its construction. At the moment, we are holding in-depth discussions on the rail link and whether it is possible for the airports and airlines concerned to achieve "seamless" co-operation in sales and operation.

Our present target is to increase the capacity of our runways to 68 movements per hour by 2015 on the basis of existing runway facilities and other relevant conditions. The Civil Aviation Department is making strenuous efforts to this end. We are confident that with the support of the Airport Authority (AA) and the industry, it will be possible to achieve the target as scheduled. On air traffic control, all units responsible for providing air traffic control services to the airports in the region have been maintaining close co-operation. A tripartite working group comprising representatives from the Mainland, Hong Kong and Macao has also been set up. Through the joint efforts of the relevant air traffic control units, improvements were made to flight level allocation, and flight delays were reduced last year. As regards the medium-to-long-term airspace and air traffic management planning, we will continue to co-operate the Mainland and Macao. Further long-term airspace enhancement measures and other relevant follow-up measures will be formulated under the principles of joint airspace planning, use of common standards and harmonized flight procedure design.

We also attach very great importance to cross-boundary transport infrastructure projects. With such projects, Hong Kong's railway and road

connection with the PRD can be enhanced, and it will also be possible to speed up Hong Kong's integration with its neighbouring places, thus further promoting the co-operation within the PRD and laying a new foundation of sustainable development in the future.

For these reasons, we have been actively promoting the implementation of cross-boundary transport infrastructure projects, with a view to speeding up cross-boundary infrastructure projects between Hong Kong and the Mainland. In this connection, it must be pointed out that the construction of the Hong Kong-Zhuhai-Macao Bridge (HZMB) will have a direct bearing on the HKIA. We hope that with the linkage provided by the HZMB, the west bank of the PRD can be brought within the three-hour transport network that radiates from Hong Kong as its centre. After the commissioning of the HZMB, the journey time by car from the HKIA and Zhuhai will be reduced to within 30 minutes. This substantial reduction of journey time can enlarge the passenger and cargo hinterland of the HKIA.

The SkyPier and cross-boundary bus/vehicular services at the HKIA can provide travellers moving to and from Zhuhai with convenient feeder transport services. Some three million passenger trips will thus be made through the HKIA every year. Such transport services can aptly show how we can make the best use of the global network of the HKIA. We will continue to explore other opportunities of such mutually beneficial co-operation.

The rapid economic development of the PRD has led to a fast increase in demand for civil aviation services. Consequently, the airports in the region will be unable to cater for future demand. For this reason, they must make good preparations and conduct reviews of the actual situation and development directions. And they must also maintain their competitiveness by implementing expansion projects. The HKIA must likewise upgrade its capacity continuously. We must make sure that the HKIA runways must have sufficient capacity to cope with demand. For this reason, in the middle of 2008, the AA commissioned a consultant to conduct the Hong Kong International Airport Master Plan 2030, with a view to ascertaining the infrastructure needs of the HKIA in the run-up to 2030. The study will also explore the feasibility of constructing a third runway. The AA has also launched a feasibility study on the construction of a third runway. The study is expected to be completed in 2010.

Faced with the impacts of the Three Direct Links on our civil aviation market, we must enhance Hong Kong's competitiveness and speed up the construction of key infrastructure projects, so as to expand our market and grasp the opportunity.

Lastly, I wish to discuss Members' view that arrangements should be made with Taiwan to avoid double taxation. Air passenger service and air freight service are cross-boundary in nature, operators of these services are more susceptible to double taxation. Regarding air service, the existing commercial arrangements between the airlines of both places do not cover double taxation, and the issues involved are rather complex. We will therefore closely monitor the relevant development. In regard to sea transport, the Hong Kong Maritime Industry Council has been following up and discussing the formulation of such arrangements. The Hong Kong Shipowners Association and ship-owner bodies in Taiwan have been actively taking part in the follow-up work. We will continue to promote studies on the formulation of arrangements to avoid double taxation for aviation and sea-transport operators in both places, so as to achieve a win-win situation.

Thank you, President.

## **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9 am tomorrow.

*Suspended accordingly at two minutes to Ten o'clock.*



## Annex I

## VOTING BY IMPRISONED PERSONS BILL

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Constitutional and Mainland  
Affairs

<u>Clause</u>	<u>Amendment Proposed</u>
Part 1	In the heading, by deleting “SHORT TITLE” and substituting “PRELIMINARY”.
New	By adding immediately after clause 1 – <b>“1A. Commencement</b> This Ordinance comes into operation on a day to be appointed by the Secretary for Constitutional and Mainland Affairs by notice published in the Gazette.”.

## VOTING BY IMPRISONED PERSONS BILL

## COMMITTEE STAGE

Amendments to be moved by Dr the Honourable Margaret NGClauseAmendment Proposed

5(1)

By deleting the proposed section 28(1B)(b) and substituting -

[NEGATIVED]

- “(b) if no address is established to the satisfaction of the Electoral Registration Officer to be the last dwelling-place in Hong Kong at which the person resided and which constituted the person’s sole or main home-
- (i) the residential address of the person furnished under regulation 4(1)(b) or 18(1) of the Registration of Persons Regulations (Cap. 177 sub. leg. A) and last recorded under those Regulations; or
  - (ii) where a person is serving a sentence of life imprisonment, the address of the prison in which the person is serving his sentence.”.

## Annex II

## INLAND REVENUE (AMENDMENT) BILL 2009

## COMMITTEE STAGE

Amendments to be moved by the Secretary for Financial Services and the Treasury

<u>Clause</u>	<u>Amendment Proposed</u>
Long title	By deleting “in the Budget introduced by the Government for the 2009-2010 financial year” and substituting “by the Government in 2009”.
3	<p>(a) In the proposed Schedule 19, in section 1(a), by deleting “50%” and substituting “100%”.</p> <p>(b) In the proposed Schedule 19, in section 1(b), by deleting “\$6,000” and substituting “\$8,000”.</p> <p>(c) In the proposed Schedule 19, in section 2(1)(a), by deleting “50%” and substituting “100%”.</p> <p>(d) In the proposed Schedule 19, in section 2(1)(b), by deleting “\$6,000” and substituting “\$8,000”.</p>



**Appendix I****WRITTEN ANSWER****Written answer by the Secretary for Security to Ms Cyd HO's supplementary question to Question 3**

As regards if the Administration could make known the location of the observation points set up by the police in relation to the procession which would start from the Victoria Park in the afternoon on 1 July 2009, the police will, with reference to the nature of each public procession, its routing and the number of participants estimated by the organizer, observe from different locations and count the number of participants passing through to make an estimate of the total number of participants. The police do not intend to disclose the location of the observation points since it involves the police's operational details.

The police reiterate that the assessment of the number of participants by the police in the course of public assemblies and processions is intended to implement appropriate crowd management measures, as well as co-ordinate necessary contingency measures for traffic and public transport services with the Transport Department. The objective is to ensure the maintenance of public order and the protection of people's safety.