

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 26 November 2008

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE ALBERT CHAN WAI-YIP

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE 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.

MEMBER ABSENT:

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

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE HENRY TANG YING-YEN, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

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

SECRETARY FOR EDUCATION

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

SECRETARY FOR FOOD AND HEALTH

MS JULIA LEUNG FUNG-YEE, J.P.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

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

SECRETARY FOR DEVELOPMENT

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.

SECRETARY FOR THE ENVIRONMENT

MR YAU SHING-MU, J.P.

SECRETARY FOR TRANSPORT AND HOUSING

MR GREGORY SO KAM-LEUNG, J.P.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY
GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2008.....	245/2008
Detention Centre (Consolidation) (Amendment) Order 2008	246/2008
Prisons (Amendment) (No. 2) Order 2008.....	247/2008
Rehabilitation Centres (Appointment) (Amendment) (No. 2) Order 2008.....	248/2008

Other Papers

- No. 29 — Accounts of the Government for the year ended 31 March 2008
- No. 30 — Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2008
- No. 31 — Report No. 51 of the Director of Audit on the results of value for money audits - October 2008
- Report of the Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008

ADDRESSES

PRESIDENT (in Cantonese): Address. Ms Miriam LAU will address this Council on the Report of the Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008.

Report of the Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008

MS MIRIAM LAU (in Cantonese): President, in my capacity as Chairperson of the Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008 ("the Amendment Regulation"), I now submit the report and highlight the deliberations of the Subcommittee.

The Amendment Regulation aims at adjusting the fares for Lantau and urban taxis and implementing a new policy on taxi fare structure that it should be front-loaded and thereafter on a varying descending scale of incremental charges (that is, "raising short-haul fares and lowering long-haul fares"). The fare adjustments under the Amendment Regulation will take effect from 30 November 2008.

The Administration has expressed that the new policy on taxi fare structure is recommended in the Report released by the Transport Advisory Committee (TAC) in June this year after the review of taxi operation which had lasted for more than one year. It is developed and in general agreed upon by the majority of the taxi trade after lengthy and in-depth deliberations with taxi operators. In face of "discount gangs", it could help restore a level playing field for taxi operators. Compared with the fare structures of other modes of public transport, it can also enhance the competitiveness of taxis.

The Subcommittee has held four meetings and received views on the fare adjustments from representatives of the taxi trade. Altogether 18 deputations from the taxi trade have attended these meetings. The members have noted that the Lantau taxi trade in general agrees with the fare adjustments stipulated in the Amendment Regulation. As far as the urban taxi trade is concerned, the majority of the deputations which have submitted views to the Subcommittee support the fare adjustments stipulated in the Amendment Regulation, saying that, on the one hand, it helps the taxi trade to cope with cost escalation and, on the other, enhances the competitiveness of the taxi service in the long-haul transport sector. One organization, however, has expressed strong objection that the fare adjustments will largely reduce the income of taxi drivers, and therefore requests that the existing fare level for urban taxis be maintained.

Some members have expressed the concern that the fare adjustments may have adverse impact on the operating environment of the taxi trade as a whole,

thereby affecting the income of taxi drivers, because of the escalating costs of operation and the rapid economic downturn in the wake of the financial tsunami. Some other members have expressed the concern that the upward fare adjustment for short-haul trips may lead to an increase in taxi rentals. The Administration has emphasized that the new taxi fare structure is expected to benefit the taxi trade as a whole, and it will continue to monitor changes in the operating conditions of the taxi trade and maintain communication with the taxi trade regarding feasible measures to improve their operating environment. Some of the taxi trade deputations, including rentor-owners, have agreed not to increase taxi rentals for six months after the fare adjustments have become effective.

The Subcommittee has also expressed deep concern that the new fare structure may not be able to effectively eliminate or minimize the room for the operation of "discount gangs" and that there should be effective measures to restore order in the taxi market in order to protect the interest of law-abiding taxi operators and passengers. Members are of the view that the existing legislation and enforcement by the police do not achieve sufficient deterrence against fare bargaining by taxi passengers and the activities of "discount gangs". In fact, from 2007 to 2008, more than 800 police officers were deployed by the police to mount around 600 operations specifically on taxi "discount gangs". Ten cases were detected for allegedly conducting discount activities, and the drivers in six cases were convicted. The success rate was 1% whilst the sentences ranged from a fine of \$500 to that of \$3,000. Some members have urged the Administration to enact clear legal provisions to prohibit fare bargaining by taxi passengers and to ensure that they pay taxi fares according to meters. The Subcommittee has also suggested that the Administration make reference to overseas experience, immediately conduct studies on the regulation of charging taxi fares according to meters, and engage in discussions with the taxi trade.

The Administration has explained that the most effective way to tackle the problem of "discount gangs" is to through the market mechanism suitably adjust the fare structure level so as to bring the fare in line with market conditions. Therefore, the Administration appeals for members' support of the proposed fare adjustments. In response to the concern expressed by the Subcommittee, the Administration has stated that it will study overseas experience regarding the regulation of charging taxi fares according to meters, and it will discuss this with the taxi trade. Having done so, it will report the findings of the study to the Panel on Transport in six months' time. Nevertheless, members are disappointed

that the Administration has not promised to work out the legislative proposals within six months, or to provide a concrete timetable for legislation.

President, this amendment involves society as a whole. During this period, views of many drivers' associations and that of other trade associations were received. Individual Honourable colleagues have also attempted to propose amendments. The Subcommittee has discussed this, but no consensus could be reached at the end of the day. In order for Honourable colleagues to express their views and debate on this regulation, I will move later on today that the Council be adjourned in accordance with Rule 16(4) of the Rules of Procedure so that more Honourable colleagues can express their views and discuss the fare adjustments for Lantau and urban taxis. I hope they can actively express their views.

President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. Question time normally does not exceed one and a half hours. After a Member has asked a main question and the relevant official has given reply, the Member who asks a question has priority to ask the first supplementary question. Other Members who wish to ask supplementary questions will please indicate their wish by pressing the "Request to speak" button and wait for their turn.

Members can raise only one question in asking supplementary questions. Supplementary questions should be as concise as possible so that more Members may ask supplementaries. Members should not make arguments when asking supplementary questions.

PRESIDENT (in Cantonese): First question.

Proposed Hopewell Centre II Project

1. **MS CYD HO** (in Cantonese): *President, the developer of the Hopewell Centre II project plans to exchange for land on the slope at Kennedy Road by*

land exchange or payment of land premium to construct a hotel and commercial building. If the land exchange proposal is approved, some 500 trees of that area will be felled. According to the traffic impact assessment provided by the developer, the traffic flow during rush hours will be increased by 500 vehicles per hour upon completion of the development project, resulting in a substantial increase of emission in the district. In this connection, will the Government inform this Council:

- (a) of the land exchange policies in place and the criteria adopted for land exchange; the land lot proposed to be surrendered by the developer in exchange for the land on the slope mentioned above; and whether the proposed land lot can also serve the same function as some 500 trees on the slope in terms of absorption of carbon dioxide;*
- (b) whether it will consult the public on the land exchange proposal and approve it only after a consensus is reached in the community; if it will not, of the reasons for that; and*
- (c) although the land grant provisions require that the developer to carry out road improvement works, the proposed improvement measures by the developer are limited only to mitigating the vehicular flow into Queen's Road East from Kennedy Road, without addressing the impact of the vehicular flow on the junction of Queen's Road East, Wong Nai Chung Road and Morrison Hill Road, impact on Canal Road West and Leighton Road and their neighbourhood, as well as the impact on traffic to and from Southern District, the Cross Harbour Tunnel to Hung Hom, and the east- and west-bound traffic of Hong Kong Island, whether it will request the developer to cover the above districts in its traffic impact assessment; if it will not, of the reasons for that?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, as I explained in my reply last week to the question raised by Miss Tanya CHAN on the Hopewell Centre II project, the developer has decided to reduce the scale of the project significantly, having listened to public views and after repeated discussions with the Government. Under the new revised scheme, the total gross floor area, plot ratio, number of hotel rooms and building height will be significantly reduced as compared with that in the 1994 approved scheme.

The developer will follow up with the Transport Department (TD) on the Traffic Impact Assessment (TIA) report and road improvement works in the context of the new revised scheme. I believe that the significant reduction in development intensity would help the discussion between the developer and the TD regarding the TIA in the next phase.

Other than the road improvement works, the Town Planning Board (TPB), in granting the planning permission in 1994, required the developer to submit and implement landscape proposals and tree felling report in respect of the entire development to the satisfaction of the Director of Planning or the TPB. Besides, tree preservation clauses will be included in the land exchange conditions for the proposed development to ensure that, without prior written consent of the Government, no trees grown on the site will be removed or disturbed. In giving its consent, the Government may as appropriate impose different conditions, for example, requirements on transplanting, compensatory landscaping or replanting.

My reply to the three-part question raised by Ms Cyd HO is as follows:

- (a) Our existing land policy is to optimize land uses within the framework of planned land use zoning. In general, the Government accepts developers' applications for "*in situ* exchange" to allow implementation of plans or projects approved within the statutory planning framework and uphold the principle of optimization of land use. This involves arrangements concerning the surrender of the private lot within the development site by the developer in exchange for the re-grant of a whole piece of land composed of private land and land originally belonging to the Government for development. Certain criteria have to be met for such applications. These include the Government land involved in the "*in situ* exchange" being incapable of reasonable separate alienation or development; there being no foreseeable public use for the land concerned; and the developer having to pay full market value premium to ensure that the revenue received by the Government is no less than that gained through separate alienation.

As regards the Hopewell Centre II project, the developer has followed the above policy and submitted to the Lands Department (LandsD) an application for *in situ* exchange in accordance with the scheme approved by the TPB in 1994. The application involves the

surrender of the private lot owned by Hopewell within the development site in exchange for the re-grant of a whole piece of land which includes land originally belonging to the Government. Such Government land is mainly the Government slope adjacent to and surrounding the private lot within the site.

As I have pointed out just now, we can preserve the trees within the site through the landscape proposals and tree felling reports submitted by the developer, as well as the tree preservation clauses included in the conditions of exchange. In fact, the developer, in response to the public concern about the trees within the development site, announced last week that \$20 million would be injected to launch a comprehensive tree protection project. There will be 650 trees with more balanced species upon the completion of the project and the green park. As regards the technical issue about the emission and absorption of carbon to be generated by 500 passenger car units and 500 trees as raised by Ms Cyd HO, I would like to refer to the Director of Environmental Protection to examine. However, simply from the greening angle, the project will provide 5 880 sq m of open space. The developer also said that the local community would be consulted on the design of the park.

- (b) The public generally welcome Hopewell's announcement last week of its decision to significantly reduce the scale of development. Generally speaking, it is inappropriate to conduct public consultation on individual cases because land administration (including land exchange, lease modification and payment of land premium) is the exercise by the Government of its rights as landlord. As land exchange normally involves planning or other applications such as TIA, there would be some degree of public engagement. The Government places high importance on public views. The LandsD, when processing applications for *in situ* exchange, will consider the views referred by the relevant departments and put forward by the public. Take the Hopewell Centre II project as an example, I have made it clear that green light will be given to the land exchange application only after the road improvement scheme is approved. The Government must publish a notice in the Gazette of the proposed road improvement works in accordance with the Roads (Works, Use and Compensation) Ordinance (Cap. 370). This

statutory procedure allows the public to express their views, which shall be considered by the Government before the road works are authorized. Therefore, the public have ample time and opportunity to express their views on the traffic impacts under the project.

- (c) As the development project was endorsed by the TPB as early as in 1994, the main purpose of the updated TIA report required by the TD in connection with the application for a land exchange subsequently submitted by the developer is to confirm whether the road improvement works proposed previously are still appropriate. Two key road junctions at Queen's Road East/Kennedy Road and Queen's Road East/Spring Garden Lane near the development site are involved. This method of assessing the traffic impact on peripheral roads also applies to other similar developments.

The vehicular flow of Wong Nai Chung Road, Morrison Hill Road, Canal Road West, Leighton Road and their neighbourhood, as well as the impact on traffic between from Southern District and the Cross Harbour Tunnel and the east- and west-bound traffic of Hong Kong Island as raised in the question are traffic issues at the district level. The TD will consider the various projects within the districts and conduct strategic study when necessary.

MS CYD HO (in Cantonese): *President, the Secretary has not answered part (a) of the main question: which land lot is proposed to be surrendered by the developer in exchange for the land on the slope. Residents in the district have provided us with much information, indicating that much land held by the developer in the district has been developed. In view of this, which lot is actually proposed to be surrendered by the developer in exchange for this piece of land on the slope measuring 4 800 sq m? If there is no comparable land for the exchange and that the payment of regrant premium is to be adopted, can the Secretary state clearly how the amount of regrant premium is calculated so as to dispel the suspicion that there is transfer of benefit in an open and transparent way?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I am surprised at Ms Cyd HO's suggestion that the developer does not have any land to

apply for an exchange. In relation to this project, we have actually given many views to the Wan Chai District Board and the residents in the district. I also have a map of the land at hand. In this development project, the blue parts represent the private lots owned by the developer whilst the yellow ones are Government land in that particular lot, most of which being slopes. Therefore, the developer owns many pieces of land in that development project. Insofar as this application for exchange of land is concerned, I stated in the main reply that it is the developer who surrenders the private lot it owns which measures more than 5 000 sq m in exchange for the piece of land designated for the entire comprehensive redevelopment area which measures some 9 000 sq m. The difference will be offset by the exchange for land on the slopes by the Government.

As for the payment of regrant premium, we have a strict mechanism which can stand the challenges by the Independent Commission Against Corruption. In this mechanism, a "before-and-after" approach is adopted for this case as well as for other ones which involve applications for *in situ* exchange. In other words, a professional surveyor from the LandsD will first assess the value of the privately owned parts in the piece of land. After development, the value of the entire piece of land will be assessed according to the scale of development. In accordance with the established criteria and subject to other considerations, the amount of regrant premium payable to the Government is arrived by subtraction of the two values.

MS CYD HO (in Cantonese): *President, can the Secretary provide in writing the map she displayed just now and the method for calculating the amount of regrant premium for public access so that we can have a clearer picture?*

SECRETARY FOR DEVELOPMENT (in Cantonese): *President, I am more than willing to do so. (Appendix I)*

MR ALBERT HO (in Cantonese): *President, because of the proposal of an exchange for land in the Hopewell Centre II project, the developer will be granted a piece of land by the Government without having to go through any open tender or bidding. Although the Secretary pointed out that this kind of*

land grant requires payment regrant premium in addition compliance with the current policy of the Government whilst the amount of regrant premium payable can also reflect the market value of that piece of land, we suspect it is difficult for the latter to be achieved because a mere valuation of that piece of land is based very often on many assumptions. The piece of land itself, however, has not been put on open bidding or tender. In view of the fact that the public have a strong aspiration towards the land policy of the Government, I hope the Government can handle this matter in an open and impartial manner so as to avoid by all means giving the public an impression of transfer of benefit. Is the Secretary prepared to review this policy of exchange for land and to conduct public consultation?

SECRETARY FOR DEVELOPMENT (in Cantonese): President, insofar as the supplementary question raised by Mr Albert HO is concerned, we actually explained the land policy of the Government at the Panel on Development meeting of the last term of the Legislative Council, that is, in the first half of this year. In fact, we have to be clear that the policy of exchange for land now falls into two categories. The first one is *in situ* exchange and the other is non-*in situ* exchange. I have said in the main reply just now that there is a specific requirement for *in situ* exchange, that the Government land obtained by such an exchange must not be parcelled out or undergo any individual development. Therefore, the situation imagined by Mr Albert HO will not exist. On the map I displayed just now, the slopes surrounding the piece of private land can neither be put on open bidding or tender nor be used for individual development.

Insofar as non-*in situ* exchange is concerned, we will exercise extreme caution. We seldom do it unless we have strong justifications. Very often, the approval of the Executive Council has to be sought for such applications. For example, the non-*in situ* exchange involved in Kin Yin Lei which will be conducted very soon falls within this category. I believe Members are aware that it presents a high degree of transparency, and work is done only after public discussion. Of course, amendments or adjustments will be made to any policy, if need be. If Members find that an aspect of the policy needs updating or improvement, I think that this can be discussed in the Panel on Development.

PROF PATRICK LAU (in Cantonese): *President, it was pointed out in part (b) of the main reply that the development scale of the Hopewell project would be*

reduced significantly, which is generally welcomed by the public. I have learnt from news reports that the number of floors is reduced by 30 when compared with the original plan. The design, however, is not amended. May I ask the Secretary whether the design can be amended in view of the reduction in the scale of the development project so that the trees in the area for the exchange can be preserved? Can this be done? This is my supplementary question.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the developer makes the amendments on basis of the plan endorsed in 1994. Whether it has any intention to repudiate the 1994 plan and re-design it according to the amended density and height is its right and we cannot require it to do so. The most up to date information I have shows that it does not have such a plan, and it hopes to make drastic amendments as quickly as possible based on the plan endorsed by the TPB in 1994, so that this project can be launched as soon as possible, thereby giving the economy and the employment situation of Hong Kong a shot in the arm.

MRS SOPHIE LEUNG (in Cantonese): *President, I attach great importance to open space and the level of greening. The issue of open space was mentioned in the second half of part (a) of the main reply. May I ask the Secretary whether the developer has exercised due diligence in the course so as to assist in solving the problems in connection with open space and the level of greening in Wan Chai District?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, the planning of this project has merits in providing open space for Wan Chai Old District, where there is an enormous need for it. This plan, endorsed by the TPB in 1994, will provide an open space of 5 880 sq m upon completion, which comprises two major public spaces. The entrance to one of them is on Kennedy Road whilst the entrance to the other one is on Ship Street. This open space of 5 880 sq m will benefit Wan Chai District greatly. Besides, I pointed out when replying to the question by Miss Tanya CHAN on the previous occasion that the developer had taken the initiative to propose that the piece of land measuring some 1 800 sq m at Nam Koo Terrace, which is outside the boundary of the development project, be planned for conservation and public open space.

MR KAM NAI-WAI (in Cantonese): *Just now, many Members mentioned that the Government would, adhering the principle of optimizing the use of land resources, accept developers' in situ exchange or non-in situ exchange, thus very often giving the public an impression of black-box operation and an excuse for collusion between business and the Government. No matter in the reply on the previous occasion or on this one, the Government did not inform us of how much floor area could be constructed by the developer on the original land and how much floor area can be constructed in addition after the inclusion of the government land. In either of the two replies, the public could not know the answers to these two questions. Can the Government inform us of the value of this additional piece of land? The Secretary said just now that there is a principle of fairness, but how can the principle of openness and fairness be upheld when the value of the piece of land is not assessed by way of open bidding? Can the Government inform us of this?*

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I hope Mr KAM Nai-wai and Members can understand that the Government is at the same time playing the role of landowner as far as the land policy is concerned. Therefore, in order to protect the interest of the landowner, Members should trust that we have a strict system for individual cases involving land which is proven. All the valuations of land are conducted by professional surveyors in the LandsD. As an accountable official, I will not take part in the discussion on the issue of regrant premium whatsoever in connection with any piece of land in Hong Kong.

In relation to the actual figures Mr KAM Nai-wai asked me to provide, if Members are interested in knowing them, I am more than willing to submit them. In fact, these figures have been cited for many times. The floor area owned by Hopewell can be as many as 15 times. After the exchange of land, we have indeed exchanged a piece of land which measures 4 000 sq m with the developer. Under the new revised scheme, the comprehensive development area measures some 9 000 sq m, and the scale of development is 10.3 times now. However, the amount of regrant premium payable is arrived not only by calculating the value of the additional floor area generated after the exchange of land by us, but by calculating that of the entire piece of land. As I said just now in reply to Ms Cyd HO's supplementary question, by comparing its value before development with that of the development of this scale, we arrived at the amount of regrant premium payable to the Government.

PRESIDENT (in Cantonese): We have spent more than 19 minutes on this question. Second question now.

Review of Class Sizes of Special Schools

2. **MR CHEUNG MAN-KWONG** (in Cantonese): *President, the Education Bureau informed this Council in February this year that it was reviewing the class sizes of the different categories of special schools. It indicated in May that it was liaising and exchanging views with the special schools on their proposals and justifications for changing the class sizes, and anticipated that it would announce the decision within this year. In this connection, will the Government inform this Council:*

- (a) of the latest progress of the above review;*
- (b) of a breakdown by school type of the names of schools and school sponsoring bodies with which the authorities have liaised, and their specific views on changes to the class sizes (including the reasonable class sizes of the different categories of special schools for meeting their actual teaching needs); and*
- (c) whether the authorities will reduce the class sizes of the different categories of special schools; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): President,

- (a) and (b)

The Education Bureau has considered recommendations and justifications on class sizes collected through the Hong Kong Special Schools Council (HKSSC) from all categories of aided special schools. Following meetings with the HKSSC to discuss the issue on several occasions in the past few months, we have just completed the examination of the class sizes of different categories of aided special schools. We will brief the HKSSC on the result of the review at the next meeting to be held in early December.

There are nine categories of special schools which include visual impairment (VI), visual impairment cum intellectual disability (VI cum ID), hearing impairment (HI), physical disability (PD), school for social development (SSD), mild intellectual disability (MiID), moderate intellectual disability (MoID), severe intellectual disability (SID) and hospital school (HS), totalling 60. On the whole, they considered that the class sizes of special schools had not been adjusted for years, despite the fact that teachers have to handle greater learning diversity in recent years. To tie in with the curriculum reform and to enhance the effectiveness of learning and teaching, they considered it necessary to reduce the number of students in each class. Their proposed class sizes ranged from six to 15 students per class.

- (c) The existing class sizes of aided special schools range from eight to 20. In addition to the basic teacher provision calculated according to the teacher-to-class ratio, different categories of special schools are provided with relevant specialist staff and additional teaching staff. Specialist staff provided include School Nurses, Occupational Therapists, Occupational Therapy Assistants, Physiotherapists, Speech Therapists, Educational Psychologists and School Social Workers. Additional teaching staff include Low-vision Training Teachers, Mobility Instructors, Resource Teachers for Autistic Children, Teachers Assisting in Speech Therapy, Resource Teachers for Supportive Educational Programmes, Primary School Master/Mistress (Curriculum Development), Teacher Librarians and Native-speaking English Teachers, and so on.

Based on the revised estimate of the 2007-2008 financial year, the average unit cost per aided ordinary school place is \$28,410 for primary schools and \$36,200 for secondary schools whereas the average unit cost per special school place is \$152,450. As reflected from this, all along the Administration has provided more resources for special schools in order to cater for students' needs. For details on the existing class sizes and average unit cost per place of different categories of special schools, please refer to the Annex.

We have taken note of the opinions of special schools with regard to reduction of class size. The current exercise is to review teaching

and specialist staff establishment in the light of the curriculum, learning and teaching and counselling needs of students in special schools, as well as the resource implications of changing the class sizes. Initially, we recognize that the curriculum of MiID schools follows that of ordinary schools to the greatest extent among all categories of ID schools. With a smaller class size than the existing 20, the effectiveness of teaching and learning can be further improved and teachers will be provided with more space to take care of the greater diversity of students so as to stretch their potential and better prepare them to lead an independent and self-reliant life. However, reduction of class size involves additional resources. We will take into account the priorities of various needs in the education sector and, subject to availability of resources, consider adjusting the class size of this category of special schools.

Annex

The existing class size and average unit cost per place of different categories of special schools

<i>Category of Special Schools</i>	<i>Class Size</i>	<i>Average Unit Cost (2007-2008 School Year)(\$)</i>
Visual impairment	15	161,500
Visual impairment cum intellectual disability	10	224,000
Hearing impairment	10	181,000
Physical disability	10	202,000
School for social development	15	108,000
Mild intellectual disability	20	89,000
Moderate intellectual disability	10	155,500
Severe intellectual disability	8	220,500
Hospital schools	8-15	108,000

MR CHEUNG MAN-KWONG (in Cantonese): *President, while we have begun to reduce the class sizes of secondary and primary schools, the class sizes of special schools have remained unchanged for more than 30 years. Although there are various categories of special schools, it is implied in part (c) of the Government's main reply that only MiID schools with a class size of 20, which is close to that of ordinary primary schools with 25 students per class, will have the*

opportunity to reduce their class size. May I ask whether the Government has totally ignored the needs of students in special schools including VI, HI, PD, SSD, MoID and SID, and even HS? Why is the Government going to reduce only the class sizes of MiID schools but not that of other special schools? Is such a practice another kind of disability discrimination in education?

SECRETARY FOR EDUCATION (in Cantonese): In fact, we can see that, according to the Annex, the class sizes of special schools are all on the low side, with the exception of MiID schools, the class size of which is 20. Most of the class sizes are 10 or eight. So, on the contrary, we have to examine what the needs are in different categories of schools. In fact, we have considered the needs of different categories of schools. For instance, concerning students with visual impairment, what they need is specialist staff who can help them do special things. As for students with moderate or severe intellectual disability, it is not quite effective to help their development by further lowering the class sizes because the range of their psychological ages is small. What they need is personal care and services in other aspects. So, in terms of manpower, as I said in the main reply, we have to consider not only teacher provision but also other specialist staff who will help take care of their needs in daily living.

In our opinion, the main point is that it is not necessary to reduce the class sizes in order to take special care of their needs because we are already able to do so. Regarding MiID schools, the class sizes can be reduced because the current class size is 20, there is enough room for us to consider reducing it. We will decide to what extent the class size will be reduced after considering all the factors.

DR LAM TAI-FAI (in Cantonese): *President, the age for admission to special schools in Hong Kong is generally six years. Just now the Secretary said that there were 60 special schools, including primary and secondary schools. But as far as I know, the Education Bureau does not provide special kindergarten education, and there are 23 special child care centres under the Social Welfare Department.*

President, as the saying goes, "the character of a person is shaped at a tender age", pre-school education is very important, particularly for children with special educational needs (SEN). May I ask the Secretary, regarding pre-school education, what will he do in order to support and help such children

with SEN? I have looked up the information prepared by the Legislative Council Secretariat and found that children with SEN will receive special grants starting from the age of three in California of the United States and Taiwan. May I ask the Secretary what can be provided for this particular group of children as far as pre-school education is concerned?

SECRETARY FOR EDUCATION (in Cantonese): Members should know that the provision of government subsidies starts mainly at the primary school stage and the Government provides various subsidies to primary and secondary schools.

As for kindergartens, several years ago — as far as I can remember, we began to introduce the education voucher scheme two years ago. However, under the scheme, the Government, instead of being the service provider, will grant subsidies to parents in the form of vouchers who will then select schools themselves.

So, under this mode, parents with the subsidies can choose suitable schools which will provide such services for their children. In this regard, the Government, as the provider of financial assistance, is not keenly concerned about the scope of services to be provided.

MR WONG SING-CHI (in Cantonese): *President, in part (a) of the main reply, the Secretary said that the authorities had held meetings with the HKSSC to collect and consider the recommendations and justifications on class sizes from all categories of aided special schools. As far as I know, the Education Bureau indicated in mid-2008 that it had all along paid attention to the justifications and views of special schools in this regard. But today, six months have passed, the Secretary still said that the authorities would listen to their views again at the meeting in December. I do not understand why the progress is so slow. Moreover, in part (c) of the main reply, the Secretary said that they had taken note of the opinions of special schools with regard to reduction of class size. As their opinions have been clearly heard, why did the Secretary still say that consideration was necessary? I also wonder if the Secretary will really consider their opinions. May I ask the Secretary on what criteria class sizes of special schools will be reduced? Or do you basically have no intention to reduce the class size at all?*

SECRETARY FOR EDUCATION (in Cantonese): In fact, what I meant in my main reply is that we have just completed the examination of the class sizes of different categories of aided special schools and will brief the HKSSC on the result of the review at the next meeting. So, we have already got the result of the review which will be reflected to them.

Regarding the criteria we will adopt, President, we will certainly have to consider whether the class size can cater for students' learning needs and, as I just said, whether our services can specifically meet their needs in other areas, for instance. As students with different degrees of intellectual disability will have different special needs, what they need are often not teachers. For instance, some students need someone to pat their back to help them expectorate sputum. In this aspect, they need the help of therapists and other specialist staff. So, we are now studying the financial resources to be required in different areas in a holistic manner. Measures will be implemented finances permitting.

MR LEUNG YIU-CHUNG (in Cantonese): *President, in the last paragraph of the main reply, the Secretary said they understand that "the effectiveness of teaching and learning can be further improved and teachers will be provided with more space to take care of the greater diversity of students so as to stretch their potential and better prepare them to lead an independent and self-reliant life." But then, he said that reduction of class size involved additional resources. We are totally disappointed at the contrasting replies in this paragraph because small-class teaching may not necessarily be pursued even though its merits have been fully recognized by the Government.*

So, I would like to ask the Secretary a question. Regarding his remark that reduction of class size involves additional resources, has he assessed what amount of additional resources will prevent the authorities from implementing the measure? Can the Secretary tell us the details and the additional resources to be required?

SECRETARY FOR EDUCATION (in Cantonese): Just now I did not mention whether or not resources were available. I just said that additional resources were involved.

Certainly, if additional resources are involved, we have to seek additional resources on our own. I will take it forward if additional resources can be found in my envelope. Otherwise, I will request funding from the Government. However, we will still go ahead if we consider it necessary to do so.

However, in case additional resources are required in this area and other aspects of education, we will make a choice between them. Overall, our current consideration is that the estimated annual additional expenditure will be around \$70 million if this initiative is implemented for MiID schools. We will do our best to fight for the resources.

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

MR LEUNG YIU-CHUNG (in Cantonese): *President, in my supplementary question, I asked how many additional resources were needed, not only for some but all special schools. Perhaps my question just now was not clear enough. If \$70 million is needed for MiID schools, as the Secretary said just now, I believe it is impossible that the Bureau does not even have \$70 million. Why did the Secretary not implement the measure?*

PRESIDENT (in Cantonese): Your question is clear enough. Secretary, please give a reply regarding other categories of special schools.

SECRETARY FOR EDUCATION (in Cantonese): Regarding other categories of special schools, perhaps our views are different. We consider it not necessary to further reduce the class sizes of other categories of special schools because their current class sizes are already very low, for instance there are only eight or 10 students per class. Is a further reduction of the class size from eight to six or from 10 to eight the most effective method? We beg to differ.

So, I said just now that we would examine other options. But no assessment on the financial implication has been made.

MS EMILY LAU (in Cantonese): *President, I believe many members of the public will agree that more resources should be allocated for taking care of these students. I hope the authorities will give prudent consideration to this.*

President, just now the Secretary said that there were 60 such schools. May I ask the total number of students in such categories and whether there are any students who belong to such categories but are admitted to ordinary schools rather than special schools? If yes, is the situation fairly unsatisfactory?

SECRETARY FOR EDUCATION (in Cantonese): Regarding the number of students, I do not have such information on hand. Please allow me to give a reply in writing.

Concerning whether students of such categories have been admitted to ordinary schools, I think such a situation will occur to students with mild intellectual disability. Members may still recall that the Legislative Council has discussed integrated education for a number of times in the hope that students with mild intellectual disability which is insignificant compared with normal people will be integrated into ordinary education. So, there are quite a number of such students.

However, students with intellectual disability which is relatively not so mild should be admitted to MiID schools. There are 18 MiID schools and the number is not small.

MS EMILY LAU (in Cantonese): *President, first of all, I hope that the Secretary will not use such words as "ordinary" or "not ordinary". Every one of us is ordinary but some have special needs.*

It is strange that the Secretary, who is the Director responsible for answering this question, does not have the most basic information, not even numbers. President, as the Secretary cannot give me a reply, I hope he can give me supplementary information after the meeting regarding: first, the number of such students; second, the number of such students who need to receive education in special schools but have been turned away and enrolled in other schools. I hope the Secretary can provide us with such information.

PRESIDENT (in Cantonese): Secretary, can you provide such information in writing?

SECRETARY FOR EDUCATION (in Cantonese): President, I will try my best to do so. (Appendix II)

MS STARRY LEE (in Cantonese): *The community absolutely supports that assistance be provided to these relatively unfortunate social groups. Regarding the Secretary's remark in part (a) of the main reply that the Government has just completed the examination of the class sizes of different categories of aided special schools, may I ask whether the examination includes a review of the effectiveness of special education? If yes, what criteria will be adopted to review the effectiveness of special education?*

SECRETARY FOR EDUCATION (in Cantonese): In fact, the scope of examination is quite wide and has certainly included the effectiveness of special education.

In respect of effectiveness, we will examine whether or not the subsidies for such students are sufficient. So, concerning the class sizes, we will look at the financial arrangement, and there is also the question of manpower. As I mentioned earlier, manpower will be increased so as to cater for their needs. For instance, the adequacy of nurses and manpower in other areas can reflect whether or not our work in this aspect is successful.

After considering various factors, we will brief the HKSSC on the result of the review at the next meeting to be held in December. Meanwhile, policies will be proposed to address problems identified.

PRESIDENT (in Cantonese): This Council has spent more than 19 minutes on this question. Third question.

Business Opportunities on the Mainland for Local Professionals and Service Sectors

3. **MR PAUL CHAN** (in Cantonese): *President, as a further step to deepen Hong Kong-Guangdong economic and trade co-operation, the Governments of Hong Kong and Guangdong Province will implement 25 liberalization and facilitation measures for early and pilot implementation in Guangdong, so as to render the service sectors in Hong Kong access to the Mainland. The service sectors covered include accounting, construction and related engineering, medical and dental, placement and supply services of personnel, environment, social services, tourism, education, maritime transport, road transport and individually-owned stores. In this connection, will the Government inform this Council whether:*

- (a) *it has discussed with the Guangdong Provincial Government the implementation arrangements for the measures; if so, of the details of the arrangements; if not, the reasons for that;*
- (b) *it has conducted relevant studies and formulated relevant policies to facilitate the development of business in Guangdong Province by local professionals and service sectors; if so, of the details of the studies and the policies; if not, the reasons for that; and*
- (c) *it will refer such liberalization and facilitation measures to the Task Force on Economic Challenges (Task Force) for discussion, if not, of the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): *President, on 29 July this year, the Mainland and Hong Kong signed the Supplement V to the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA) and announced a package of liberalization and facilitation measures for early and pilot implementation in Guangdong Province. There are a total of 25 Guangdong pilot measures, 17 of which are included under the CEPA framework for implementation with effect from 1 January 2009. Among the 25 measures, the Mainland has agreed to lower the market access requirements in various service sectors (including medical and dental; maritime transport; placement and supply services of personnel). The Mainland has also agreed to delegate to Guangdong Province the authority to approve applications*

in such service sectors as medical and dental, tourism, distribution and road transport so as to streamline and expedite the relevant procedures.

Let me reply to part (a) of Mr CHAN's main question first. The Government of Hong Kong Special Administrative Region (HKSAR) attaches great importance to the Guangdong-Hong Kong co-operation in the service sectors. We have maintained close liaison with the Provincial Government of Guangdong and taken measures to ensure that the Guangdong pilot measures will be implemented as early as possible.

In fact, the HKSAR Government has fully made use of the "Guangdong-Hong Kong Expert Group on Implementing CEPA Services" under the "Guangdong-Hong Kong Co-operation Joint Conference" to liaise and follow up closely with the relevant mainland authorities to ensure the effective implementation of the Guangdong pilot measures. In addition, relevant authorities from both sides signed eight co-operation agreements in August this year, setting out the working targets for the coming year with a view to expediting the implementation of Guangdong pilot measures and strengthening the co-operation in services sectors in both places. Various bureaus and departments of the HKSAR Government have also maintained frequent exchanges with the relevant authorities in Guangdong on the implementation of the Guangdong pilot measures and reflected to them the views of our trade.

Besides, the HKSAR Government closely monitors the promulgation of laws and regulations concerning the relevant measures, as well as the implementation arrangements. We understand that relevant authorities of the Central Government and Guangdong Province are in the process of amending the relevant laws and regulations. In the meantime, the Guangdong authorities are working on the implementation arrangements, including promulgating the implementation details for the relevant measures, establishing notification, discussion and monitoring mechanism, providing facilitation measures for trade and investment and enhancing the support to Hong Kong service suppliers. We are uploading to our CEPA website for the trade's reference, relevant new laws and regulations as well as implementation details issued by the Mainland when they are available.

In order to enable the trade to have a better understanding of Supplement V to CEPA and the Guangdong pilot measures, the HKSAR Government jointly organized a seminar with the Ministry of Commerce and the Provincial

Government of Guangdong in September this year. Representatives of the relevant central ministries and the Provincial Government of Guangdong were invited to brief the trade on the details and the implementation arrangements for services liberalization and pilot measures, and to exchange views with the trade.

With regard to part (b) of the main question, I wish to point out that the HKSAR Government will from time to time conduct studies on policy formulation and implementation to keep up with the development of professional services and service industries. For example, in the light of the challenges and business opportunities brought by China's 11th Five-Year Plan, the Administration organized an Economic Summit and invited stakeholders of the business, professional, labour and academic sectors to take part in it. There was in-depth discussion on topics relating to "Trade and Business", "Financial Services", "Maritime, Logistics and Infrastructure", and "Professional Services, Information and Technology and Tourism", which also involved suggestions on the co-operation and development of Hong Kong and Guangdong service sectors and making good use of CEPA. Supplement V to CEPA and the Guangdong pilot measures are taken forward in the general context of enhancing co-operation and development of the service sectors in Hong Kong and Guangdong.

In fact, in deliberating further liberalization and trade and investment facilitation measures of CEPA each year, we will pay heed to the trade's views, consider the benefits that the proposed measures may bring to the development of the Hong Kong economy, and maintain close dialogue and contacts with the Central Government and Guangdong Province.

We attach great importance to the trade's views on the implementation of CEPA. The Commerce and Economic Development Bureau thus held the third CEPA consultative forum on 11 November this year, following the first two held in March and November last year, in order to gather the trade's views on the implementation of Supplement V to CEPA and the Guangdong pilot measures as well as their proposals for further liberalization. We are now collecting and collating specific views from the trade and will follow up with the Central Government and Guangdong Province in due course.

Concerning part (c) of the main question, in response to the current financial crisis, the newly established Task Force will monitor and assess the impact of the financial tsunami on the local economy and our major industries. It will also examine and put forward specific proposals to address the challenges

and turn the crisis into business opportunities for consideration by the Administration and the industries concerned. The Task Force will closely monitor the latest development of the Guangdong Province and the neighbouring regions in order to explore new business opportunities for various sectors in Hong Kong as well as to enhance our competitiveness. If appropriate, the Administration will consult the Task Force on ways to seek more business opportunities for Hong Kong's services industry and professionals so as to enhance their access to the mainland market.

MR PAUL CHAN (in Cantonese): *President, the professional sectors of Hong Kong earnestly look for opportunities to operate their business in Guangdong in the form of sole proprietorship or partnership with their mainland counterparts. At present, only the medical sector can do so. May I ask the Secretary whether there will be chances of a breakthrough for other professional sectors? If so, what is the timetable?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I thank Mr CHAN for his supplementary question. In order that CEPA can be better tailored to suit the trade's needs, the HKSAR Government will continue to make reference to the views of the trade, including the professional bodies, in formulating key areas of discussion with the Mainland in the coming year. In this connection, the HKSAR Government has all along listened to the trade's views through different channels on the implementation and development of CEPA. We are certainly keenly concerned about the views of the professional sectors in the trade because we may not have as deep an understanding of liberalization measures in the Mainland, and we need the benefit of their views.

As I mentioned just now, the Commerce and Economic Development Bureau invited representatives of many chambers of commerce and professional bodies to participate in its third CEPA consultative forum held on 11 November, where we discussed together facilitation measures for the professionals and the trade, including the implementation of such measures for the professionals and the problems encountered, and then how to further open up the service industries.

In addition to the accounting sector which Mr CHAN mentioned just now, we also maintain contact with other professional sectors. For the construction

sector, the Development Bureau had its annual meeting with the construction and related engineering organizations last night to gain an understanding of the sector's aspirations and views. Associations which attended the meeting included the Hong Kong Institute of Architects, the Hong Kong Institution of Engineers, the Hong Kong Institute of Planners, the Hong Kong Institute of Surveyors, the Hong Kong Institute of Landscape Architects, the Association of Architectural Practices, the Association of Consulting Engineers of Hong Kong, and so on. In fact, we attach great importance to maintaining liaison with the sector and seek to explore the opportunity in conjunction with the sector on how to create better business opportunities with their mainland counterparts. The Government is aware that various professional sectors have different aspirations towards lowering the market access threshold and striving for equal treatment as Chinese nationals. The relevant Policy Bureau will definitely continue to listen to the sector's views. If some of the measures cannot be implemented throughout the Mainland, we will implement them as pilot measures. For instance, the 25 Guangdong pilot measures are a good example. In this regard, if the result is satisfactory, the measures will be implemented country-wide.

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

MR PAUL CHAN (in Cantonese): *Please follow up for us the part relating to operating businesses in Guangdong as sole proprietorships or partnerships with the mainland counterparts.*

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

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, we will actively follow up this issue.

DR SAMSON TAM (in Cantonese): *President, our sector welcomes the measures under the Supplement V to CEPA, especially in view of the fact that service sectors accessing the mainland market has already become the trend of the times. However, with more and more small and medium enterprises (SMEs)*

in Hong Kong accessing Guangdong Province, how can we help them resolve the difficulties encountered? SMEs have to deal with many industrial and commercial taxation matters and bank accounts. They almost have to pay tax every month and they have to complete many procedures as well. How can these procedures be streamlined to facilitate the SMEs? The Secretary mentioned a number of times in the main reply that the procedures would be streamlined, but I cannot see any specific measures, except the 25th liberalization and facilitation measure about electronic commerce (e-commerce) in the document. Thus, may I take this opportunity to ask the Secretary how the electronic signature certificate will be implemented? Electronic signatures were not so common in Hong Kong at that time, but now transboundary electronic signatures are made possible which, theoretically, should have saved the SMEs from frequent travel between the two places to complete the numerous procedures required by the government. May I ask the Secretary whether there is any specific application of electronic signature, especially the application of electronic signature services in electronic government?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, Dr TAM has in fact mentioned two questions. The first question is about the professional sectors which may have to deal with more complicated procedures in their operation in the Mainland. What can be done to facilitate such procedures? I will propose four points. In our Supplement V to CEPA this time and the Guangdong pilot measures, there are four points which merit our attention.

The first point is about the delegation of authority to Guangdong Province to approve applications, which will expedite the vetting procedures and formalities. Second, we prepare, in conjunction with the Provincial Government of Guangdong, lists of contact persons of the departments related to the relevant sectors, so as to facilitate our liaison in the course of resolving problems. The third point is to request Guangdong Province to compile guides on application procedures of these concessionary measures for relevant persons' reference in case of uncertainty. Fourthly, when we streamline application procedures with the mainland authorities, we will provide exclusive services such as "green channels". At present, such investment service centres have been set up in Shenzhen and Dongguan of Guangdong, and "green channels" are also available in Pudong of Shanghai. We will continue to make extra efforts to draw reference to other facilitation measures.

Regarding the second question, Dr TAM mentioned the electronic signature certificate which is one of the 25 Guangdong pilot measures. In fact, work has been in progress. In order that co-operation on mutual recognition of electronic signatures can be effectively taken forward, the Ministry of Industry and Information Technology, the Department of Information Industry of Guangdong Province and the Office of the Government Chief Information Officer of the HKSAR have stepped up co-ordination and established a tripartite joint working group which is already in operation. At the present stage, we have invited organizations of electronic signature certification to participate in the certification work. Meanwhile, the working group has been conducting a study to identify potential problems in implementation, and the study includes the collection of relevant statistical information and analysis of progress reviews. The working group will submit a report to the relevant parties in December which will be used as the framework proposal on mutual recognition of certificates between Guangdong and Hong Kong. I wish to highlight that this will be directly beneficial to the development of transboundary e-commerce as it can pool electronic certificate users of both places together to generate synergy. We believe these services can stimulate patronage for electronic certificates and promote the development of transboundary e-commerce, thereby increasing the demand for such services in both places.

MR TAM YIU-CHUNG (in Cantonese): *President, I have this question for the Secretary. In the Supplement V to CEPA, there is no measure on strengthening Hong Kong-Guangdong financial co-operation at all. The Provincial Government of Guangdong has repeatedly stated its wish to make use of Hong Kong's edge in financial services to promote the economic development of both places. Will the HKSAR Government strengthen communication with Guangdong Province on this matter, and together appeal to the Central Government so that our current needs can be incorporated into the work of promoting economic development in both places?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): *President, I thank Mr TAM for his supplementary question. In fact, Hong Kong has to find new opportunities and continue to explore emerging markets amid the financial tsunami. On the financial front, the Guangdong Party Secretary, Mr WANG Yang, advocates the further liberalization of financial industries in Guangdong, striving for reform and innovation, and thorough*

examination of how best Guangdong-Hong Kong financial co-operation can be intensified. In October 2008, the first Hong Kong-Guangdong Financial Co-operation Seminar was successfully held in Guangzhou. The Secretary for Financial Services and the Treasury clearly indicated in the seminar that, subject to the consent of the Central Government, Hong Kong supports the early and pilot implementation of suitable financial co-operation projects in Guangdong. As I mentioned just now, if these pilot projects implemented in specified provinces and municipalities achieve satisfactory results, we can then consider striving for their implementation country-wide. At present, Guangdong-Hong Kong co-operation falls on professional exchange and training, and Renminbi business. We hope that such co-operation can be expanded to gain more business opportunities for Hong Kong.

DR PAN PEY-CHYOU (in Cantonese): *President, may I ask the Secretary whether he can tell us how many Hong Kong-based medical groups and enterprises have entered the mainland market since the launch of CEPA? And how many Hong Kong-registered medical practitioners and health care professionals are now working in the Mainland?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I thank Dr PAN for his supplementary question. In fact, after the launch of the Supplement V to CEPA, we have learnt that many professionals are interested in starting their practice in the Mainland. However, as the implementation details of the specific measure are yet to be fully promulgated, it may take some time to address the teething problems with the enforcement of the measure. I do not have the current figure mentioned by Dr PAN just now. I will check the information and provide a reply in writing to Dr PAN later. (Appendix III)

In fact, regarding medical and dental services, the Guangdong pilot measures have many concessions for Hong Kong. For instance, the vetting of the creation of project items has already been taken up by the provincial health administrative departments in Guangdong. Secondly, out-patient clinics on a wholly-owned, equity joint venture or contractual joint venture basis are allowed to be set up in Guangdong Province with no investment requirement imposed. Thirdly, no restriction is imposed on the ratio of capital investment between the Mainland and Hong Kong counterparts in setting up out-patient clinics in the

form of equity joint venture or contractual joint venture in Guangdong Province; and wholly-owned out-patient clinics are also allowed to be set up in Guangdong. Last but not least, qualified Hong Kong permanent residents with Chinese citizenship are allowed to apply for and obtain the Mainland's "medical practitioner's qualification certificates" through accreditation. I wish to explain that foreign service suppliers in the Mainland will not enjoy these concessions. In fact, the measures under the existing framework have already given considerable leeway to Hong Kong medical service personnel.

PRESIDENT (in Cantonese): We have spent almost 20 minutes on this question. Fourth question.

Assistance to Small Shop Tenants and Licensed Hawkers

4. **MR VINCENT FANG** (in Cantonese): *Being struck by the financial tsunami, the economy is in a downturn and the confidence of consumers is declining, coupled with an increasing number of unlicensed hawkers, small shop tenants and licensed hawkers are operating with greater difficulties. Will the Government inform this Council, in order to assist them in reducing operating difficulties:*

- (a) *whether the Government will, by following the measure of waiving business registration fee for this year as announced in the 2008-2009 Budget, immediately waive the hawker licence fee for fixed-pitch hawkers and itinerant hawkers for one year, so as to alleviate their burden; and*
- (b) *as the rentals for Cheung Sha Wan and Western Wholesale Food Markets under the Agriculture, Fisheries and Conservation Department this year have risen, whether it will waive the rentals for one quarter for wholesale food markets under the Department and those for public markets and shopping malls under the Government, or lower such rentals immediately, and in respect of wholesale food markets which are required to pay commission according to their sales turnover, cease to collect commission for one quarter, so as to reduce the operating costs of small shop tenants and lower food prices, as well as take the lead in lowering shop rentals; if it will not, of the reasons for that?*

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

- (a) The main purposes of business registration are to provide the Inland Revenue Department with information on businesses for it to create tax files and to enable the public to obtain information on businesses for reference. It is applicable to all businesses and does not aim at regulating individual types of business. Nevertheless, the purpose of hawker licensing is to regulate hawking activities. The nature of a hawker licence is similar to that of a licence or permit for certain types of business, such as karaoke establishment permit, restaurant licence and amusement game centre licence. As such, the hawker licence fee should not be compared to the business registration fee.

On the other hand, the hawker licence fee falls under the category of fees charged under the "user pays" principle, that is, the Government recovers full costs from users for the provision of goods and services or implementation of regulatory schemes. There has been no adjustment to the hawker licence fee since 1998 and the Government is currently unable to achieve full-cost recovery for licensing. Further licence fee concessions, if any, will mean more subsidy by the Government, which is in contrary to the "user pays" principle. Hence, the Government has currently no plan to waive hawker licence fee.

- (b) The rentals for government wholesale food markets have all along been determined on a cost recovery basis. The costing review completed in 2008 shows an increase in the overall costs for both the Cheung Sha Wan and Western Wholesale Food Markets. Hence, starting from June 2008, the rentals for both markets have been adjusted upward by 11.4% under the established mechanism. However, taking into account the operating environment of the trade, the Government has announced earlier in July a two-month waiver of rentals for government wholesale food markets. In fact, the rentals for both the Cheung Sha Wan and Western Wholesale Food Markets have dropped by about 35% since 1999. As such, even after an increase of 11.4%, the rental level is still slightly lower than the level in 2002-2003.

Currently, the overall rental policy for public markets, shopping malls and shops owned by the Government is to charge tenants according to the open market rental (OMR). The rentals of public

markets are normally set according to the open auction prices. The upset auction prices of market stalls are determined with reference to the OMR as assessed by the Rating and Valuation Department (RVD). In assessing the rental value of market stalls, the RVD takes into full account the general economic situation of Hong Kong, the actual conditions of individual markets and other relevant factors. In fact, the rentals of public market stalls under the Food and Environmental Hygiene Department (FEHD) have been frozen since the rental reduction of 30% in 1998. Earlier in May this year, the Government has announced the extension of the rental freeze to 30 June 2009. Besides, as a result of the past resiting exercises of hawkers or displaced market stallholders, many tenants are paying rentals far lower than the OMR. Generally speaking, the current market stall rentals are prevalently lower than open market level.

For the above reasons, the Government has no plan to waive the rentals of wholesale and public market.

As for the wholesale food markets which are required to pay commission according to the sales turnover, there are the vegetable and fish wholesale markets under the Vegetable Marketing Organization (VMO) and the Fish Market Organization (FMO). Both the VMO and FMO are independent and non-profit-making statutory organizations operating on commercial and self-financing basis without government subsidies. At present, the VMO collects no more than 10% of the total turnover from wholesalers as fees for the services provided, and no fees are required from purchasers. The FMO also collects 7% of the purchase prices of marine fish or \$5 per 15 cattles of marine fish from wholesalers as fees.

Such fees are the main source of funding for the VMO and FMO. Any surplus generated will be allocated for the purpose of facilitating the sustainable development of local agriculture and fisheries trade, including establishment of loan funds and scholarship schemes, to provide the trade with low-interest loans, training subsidies and scholarships. They have to balance their books and must not operate on a loss-making basis. If the business of individual wholesalers is affected by external factors, resulting in a drop of wholesale price, the percentage-based fees actually collected by the VMO and FMO will also decrease correspondingly. Therefore, the existing commission system has taken into adequate

account any possible volatility of business in the trade. The commission waiver, if introduced, will severely affect the finance and operation of the VMO and FMO, as well as the quality of support services provided for the trade. Given the above considerations, the Government has currently no plan to waive the commission for one quarter.

The Government will keep in view the business environment and economic development.

MR VINCENT FANG (in Cantonese): *We may learn from the Secretary's main reply that the Government has all along been upholding the so-called "user pays" principle of cost recovery, but I consider that a rather rigid approach. In times of economic boom, the Government will certainly have an enormous surplus, but once the situation turns for the worse, the Government should provide some sort of subsidy. For example, yesterday the Housing Authority (HA) made an immediate response to the current dire situation by announcing that it would reduce rentals for two months. However, we understand that the Housing Department has a surplus, but FEHD markets have been suffering from deficits due to the Government's mismanagement. At present, the customer flow in these markets is very low, if coupled with the current economic condition, the customer flow may be even lower. Will the Government take this into consideration after all the tenants have folded their business? Even the VMO and the FMO have a surplus of more than \$30 million last year, can they afford to waive the commission for one quarter? Why does the Bureau not find a way to help small businesses?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I have just explained that, at present, the Government is very flexible in these aspects. We have been maintaining the principle of cost recovery, but we have also made some adjustments for certain periods of time. For example, rents were frozen in 1998, and we implemented a two-month waiver of rentals for wholesale food markets in July this year. This shows that the Government is dealing with problems faced by the industry in a flexible way. Nevertheless, generally speaking, rents only account for a smaller part in the expenditure of the industry. No matter how the rents are adjusted, they would not add much difficulty to the business operations. For this reason, I think the Government should consider the matter carefully before making a decision on this.

MR TOMMY CHEUNG (in Cantonese): *Speaking of cost recovery and the "user pays" principle, the case is just the same in the catering business, that is, the objective is to make a reasonable profit. The Secretary's main reply is removed from the general reality, society and the world economy, because we are not talking about reasonable profits but survival. I also hope the Secretary will cease to consider cost recovery anymore. President, will the Secretary please do not waste our time, for the main reply should be an official reply a couple of months ago, but today's situation has changed. Please take a look at the United States. After allocating US\$700 billion to save the market, the United States Government has again allocated another US\$600 billion. Secretary, do you think the HA and Secretary Eva CHENG are fools? In fact, like what you have done, she can give such a reply too, but she has done some work. I feel that the Secretary should expeditiously find ways to implement them on a full scale.*

President, I know this is not the answer for today. Since the Secretary has mentioned licences of karaoke establishments, restaurants and amusement game centres in part (a) of the main reply, I therefore wish to make the request in passing, so that the Secretary may also take into account those licenses under his purview and see if the annual license fees can be waived?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, this policy has been discussed for years, and I remember that on 30 April, the Legislative Council discussed the same issue. With regard to assisting Hong Kong's economic recovery or helping small and medium enterprises (SMEs), the Government has done a lot of work. Therefore, we feel that the most important thing at the present stage is to rescue certain enterprises, so that they can survive and those working employees will not lose their jobs because of the economic downturn. Therefore, we think there is a need to do more in this regard. However, with regard to rents, we must consider carefully whether it will breach the current principle adopted before a decision is made. As everybody can see, the fees charged by the Government on this industry, especially in the food sector which I have mentioned just now, are already heavily subsidized. As to hawkers and market stalls, the Government has also provided considerable subsidies. Therefore, any further fee waiver in this regard warrants the consideration of fairness and impartiality.

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

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my question. The Secretary provided the wrong answer in the first sentence of his reply, and I would say that his main reply is "perfunctory" and over the years, he has been giving answers like that*

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

MR TOMMY CHEUNG (in Cantonese): *Now this is a once-in-a-century global financial turmoil, so at this time, we have to*

PRESIDENT (in Cantonese): Please state which part of your supplementary question has not been answered by the Secretary.

MR TOMMY CHEUNG (in Cantonese): *The Secretary has not answered the part about it being a very important moment now, the Secretary should not give a perfunctory reply. He should promptly consider that the licence fees, commissions and rents*

PRESIDENT (in Cantonese): Mr CHEUNG, you are only expressing your views about the Secretary's reply. Actually, it is not that the Secretary has not answered your question.

MR WONG YUNG-KAN (in Cantonese): *In reply to the question of Mr Vincent FANG earlier, the Secretary said that the Government's intent was to take the lead in rental reduction, especially when the HA has announced the reduction of rents for two months. May I ask what plans the Government has to communicate with those business operators in private shopping malls, including shopping malls under The Link REIT, over the question of rent reduction, with a view to improving the business environment?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, private shopping malls are operated in accordance with commercial principles, so the rents are determined according to commercial principles.

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

MR WONG YUNG-KAN (in Cantonese): *The Secretary told us that these were private matters and the Government could not deal with them, but as to the part on The Link REIT, what work has the Government done? Even though they are private shopping malls, what plans the Government has in place to deal with the situation? Now members of the public are very much dissatisfied with*

PRESIDENT (in Cantonese): Mr WONG, you know that after a Member has raised a supplementary question, he is not allowed to raise any follow-up question on the Secretary's reply. I believe the Secretary has already answered your supplementary question.

DR LAM TAI-FAI (in Cantonese): *President, just now Mr Vincent FANG said that in order to alleviate the operating pressure on SMEs, the HA had announced yesterday that the monthly rents for January and February 2009 would be reduced by half, and everyone could see from the media and television that the business operators concerned were very delighted. Secretary, I hope you will not give us evasive answers by using "user pays" and "cost recovery" as excuses, because this will make not only the people, but also other countries and the Central Government feel that the Hong Kong Government is shirking its responsibility and unwilling to shoulder the social responsibility. In these difficult times, should we be conservative and opposed to change and insist on acting in accordance with policies laid down in the past? So*

PRESIDENT (in Cantonese): Dr LAM Tai-fai, you should not express any opinions.

DR LAM TAI-FAI (in Cantonese): *I very much hope that the Secretary will reconsider it carefully and answer parts (a) and (b) of Mr Vincent FANG's main question, that is, whether the authorities will reduce the rents or waive certain business licence fees or government fees and charges with a view to helping us to tide over the difficulties. Will the Government take the lead? Will the Government request The Link REIT or other private malls to introduce rent reductions, so as to tide over the difficulties with the general public?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Food and Health.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, just now when I replied to Mr Vincent FANG's question, I made it clear that although the "user pays" principle was adopted, these particular types of trades had been given substantial subsidies while the full costs were not immediately recovered. For example, with regard to the wholesale markets, even though we decided to recover the costs, and the Audit Commission has also reminded us to recover the costs, we still requested the Government to waive the rents for two months. It therefore shows that we have flexibility. We all understand that there are quite many demands in society now, and people all hope that the Government will make use of limited resources to help the economic recovery of the community as a whole. I know that Members will have the opportunity to exchange views with the Financial Secretary on next year's budget. I hope Members will understand that we must look at the issues from the perspective of the overall development of the community at large, not just from the perspective of individual trades alone.

DR LAM TAI-FAI (in Cantonese): *President, my supplementary question is: will the Secretary reconsider the two items of Mr Vincent FANG's main question?*

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

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I have said just now that we need to carefully consider these issues. We must be very careful in order to make a fair and impartial decision.

MR ALAN LEONG (in Cantonese): *President, in the last sentence of the Secretary's main reply, he said, "The Government will keep in view the business environment and economic development." The Civic Party reckons that more and more people will want to become hawkers in view of the current economic doldrums. As such, may I ask the Secretary whether he will consider making recommendations to Secretary Eva CHENG on establishing some hawker bazaars in public housing estates, so that itinerant hawkers may do business there?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, with regard to the hawker policy, we have already pointed out several times that different districts have different needs. While some districts may want to have a bazaar, others may worry that these hawkers will create various hygiene problems or ruin the local outlook. We therefore hope that we can discuss these issues with a more flexible approach, and the Government would also like to cater to the views of various districts as much as possible. However, being the Policy Bureau responsible for hygiene and food safety policies, we must ensure that the operation of hawkers will not affect environmental hygiene, traffic or pedestrian flow. We must choose an appropriate place and local community to set up such hawkers' zone on the premise that local residents consider the setting up of such zones acceptable. This proposal is worthy of consideration.*

PRESIDENT (in Cantonese): *We have spent more than 18 minutes on this question. The fifth question.*

Schools Admitting Band Three Students in Sha Tin and Tai Po

5. **MR RONNY TONG** (in Cantonese): *President, it is reported that a total of four secondary schools in Sha Tin and Tai Po districts admitting mainly Band Three students (Band Three secondary schools) will not be granted subsidy to provide senior secondary classes from the 2009 school year onwards because their numbers of senior secondary students do not meet the requirements for operating three secondary classes in that school year under the New Academic Structure for Senior Secondary Education. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of school-aged students, places and teachers for each senior secondary form in these two districts for the current and the two previous school years, and the relevant estimated numbers for each school year from the next one to 2016;*
- (b) *of the roles and functions of Band One to Band Three secondary schools under the current education system; whether it has considered if a reduction of senior secondary classes provided by Band Three secondary schools will add to the burden of secondary schools of other bands; and*
- (c) *whether it will consider implementing small-class teaching (SCT) in the Band Three secondary schools concerned, so as to enable them to continue to perform their intended functions, and to solve the problem of surplus teachers; if not, of the reasons for that?*

SECRETARY FOR EDUCATION (in Cantonese): President, the four schools in Sha Tin and Tai Po as mentioned in the question operated less than three Secondary One (S1) classes in the 2006-2007 school year. Hence, they could not meet the requirement of operating at least three classes per level under the New Senior Secondary (NSS) Academic Structure. There were a total of 11 schools which failed to operate three S1 classes per level in that year. The Education Bureau provided a number of development options for them to choose and apply for. Among them, the four schools in Sha Tin and Tai Po were unsuccessful in their applications for development options. As a result, they will not be granted subsidies for operating senior secondary classes starting from the 2009-2010 school year. Nonetheless, the Education Bureau has been keeping in contact with the schools all along and will consider any practicable suggestions made by the schools on their future development, such as merging with other schools, to meet the requirement of a broad and balanced curriculum under the NSS Academic Structure.

Under-enrolment of secondary schools is a consequence of the decline in school-aged population for secondary education rather than a result of government policy. We have been trying our best to create room for schools' continued development on the premises of ensuring an effective use of resources,

facilitating schools' stable development and taking care of the learning interest of students. In fact, taking heed of this situation, we announced in April this year that an additional recurrent expenditure of \$1.4 billion will be spent on a series of relief measures. The related measures include reducing the number of students allocated to each S1 class by two in each year up to 34 students per class, and lowering the threshold of operating an S1 class to 30 students per class starting from the next school year.

Regarding the three parts of the questions, my responses are as follows:

- (a) According to the information submitted by schools, details of the numbers of students and school places for senior secondary levels in Sha Tin and Tai Po districts for the current and the two previous school years are set out in the Annex. Given that the planning of secondary school places is on a territory-wide basis, and the number of places for each secondary school by district will be affected by various factors such as allocation results, change of individual schools' development plans, mobility of population, parental choices, and so on, we are unable to estimate the numbers of students and places for each senior secondary level in the two districts.

As secondary school teachers generally teach both junior and senior secondary levels, we do not have the estimated number of teachers solely teaching senior secondary classes for those two districts.

- (b) Under the Secondary School Places Allocation (SSPA) system, places are allocated according to students' allocation bands, computer-generated random numbers and parental choices. With reference to previous allocation results, most secondary schools admit students of more than one allocation band, though with different proportions. In fact, for more than 130 schools in Hong Kong, over 50% of their junior secondary students admitted are from Band Three. In other words, a considerable number of schools and teachers have experience in catering for the learning diversity of students and this is also part of the professional tasks of teachers.
- (c) As I have mentioned earlier, we will lower the basis for approving S1 classes to 30 students per class starting from the next school year.

In other words, if a school has enrolled 61 S1 students, it will be approved to operate three S1 classes with about 21 students per class in that case. In view of the above, for those under-enrolled schools, the number of students per class is far below 30 students and can even be as low as 21. Most of this type of schools usually admits Band Three secondary schools. We believe that this relief measure is target-oriented and can greatly alleviate the pressure of student enrolment of secondary schools arising from the decline in school-aged population for secondary education.

The main purpose of implementing SCT is to enhance the quality of education. The SCT policy should not be used to tackle the under-enrolment of schools or to resolve the problem of surplus teachers. Furthermore, the teaching environment, curriculum support and staffing establishment in secondary schools are different from those in primary schools. Given that secondary schools have always had additional teachers for split-class teaching in specified subjects, the number of students in certain subject groupings is comparable to that for small class. As a matter of fact, the teacher-to-student ratio of secondary schools has gradually improved from 1:20 in the 1997-1998 school year to 1:17 in the 2007-2008 school year.

We agree that additional support is needed for those schools which admit mainly Band Three secondary schools in order to take care of students' learning needs. In fact, we have been providing additional teachers to schools admitting Band Three secondary schools. In the 2008-2009 school year, over 750 additional graduate teachers have been provided to schools, involving an annual recurrent expenditure of about \$300 million. With this measure, schools can flexibly deploy the additional teachers according to school-based needs to facilitate the implementation of whole-school approach to catering for the academically low achievers and to arrange for grouping teaching or SCT for the core subjects. In addition, starting from this school year, secondary schools in need have also been provided with Learning Support Grant for recruiting more manpower and purchasing services to better cater for students with special education needs.

Annex

No. of Students and School Places at Senior Secondary Levels
in Sha Tin and Tai Po Districts

District	Level	2006-2007 ⁽¹⁾		2007-2008 ⁽¹⁾		2008-2009 ⁽²⁾	
		No. of students ⁽³⁾	No. of school places	No. of students ⁽³⁾	No. of school places	No. of students ⁽³⁾	No. of school places
Sha Tin	Secondary 4	7 423	7 570	7 361	7 490	7 192	7 400
	Secondary 5	7 086	7 716	7 163	7 644	7 222	7 480
	Secondary 6	2 650	2 580	2 608	2 520	2 566	2 460
	Secondary 7	2 473	2 580	2 510	2 550	2 442	2 520
	Total	19 632	20 446	19 642	20 204	19 422	19 860
Tai Po	Secondary 4	4 176	4 239	4 163	4 274	4 040	4 120
	Secondary 5	4 139	4 360	4 155	4 342	4 041	4 040
	Secondary 6	1 392	1 319	1 415	1 380	1 372	1 320
	Secondary 7	1 316	1 319	1 334	1 320	1 291	1 320
	Total	11 023	11 237	11 067	11 316	10 744	10 800

Notes:

- (1) Figures for the 2006-2007 and 2007-2008 school years are compiled on the basis of results of the Student Enrolment Survey of the respective school years. They refer to the position as in September of the respective school years in government, aided and caput schools. Students studying in schools under the Direct Subsidy Scheme, private schools, international schools and special schools are not included.
- (2) As the information on the Student Enrolment Survey of the 2008-2009 school year is still under consolidation, the figures only refer to the headcounts taken in September 2008 in government, aided and caput schools. Students studying in schools under the Direct Subsidy Scheme, private schools, international schools and special schools are not included.
- (3) Students of the age groups for secondary education (that is, aged 12 to 17) may not enrol in the same level at the same age due to various reasons like they are new arrivals, have repeated class, have commenced schooling later or earlier, and so on. Therefore, the numbers of students set out respectively in the list are not of the same age.

MR RONNY TONG (in Cantonese): *President, I think the answer given in part (b) of the Secretary's main reply is no answer at all.*

President, the number of classes in these four schools may soon be reduced, so the thrust of my main question is the roles and functions of Band One to Band Three secondary schools. Will a reduction of senior secondary classes provided by Band Three secondary schools add to the burden of secondary schools of other bands? Can the Secretary give a more detailed reply?

SECRETARY FOR EDUCATION (in Cantonese): President, I hope Mr TONG can read my main reply. I pointed out that, at present, students are divided into three allocation bands according to their abilities. Actually, our practice is to divide students into three groups. Those with the highest abilities are placed in Band One and those with medium abilities in Band Two. The last group is Band Three. Students are then allocated to different schools according to their respective allocation bands. There are no Band One, Band Two and Band Three schools as such. I pointed out very clearly in my main reply that most secondary schools admit students of more than one allocation band. Some schools admit Band One or Band Two students, but may also admit some Band Three students. Some admit more Band Two students, and others may admit a greater number of Band Three students. But most schools admit students of more than two bands. Therefore, we do not specify the banding of any secondary schools.

I also pointed out very clearly in my main reply that our approach is student-based, in the sense that we will make special efforts to cater for the needs of students. As mentioned clearly in part (c) of my main reply, if the students admitted by a certain school are of lower abilities, we will provide the school with additional resources. Therefore, all the present measures are implemented according to the students' actual needs, so as to alleviate the pressure on schools.

Another point is that SCT is implemented not to tackle the under-enrolment of schools or to resolve the problem of surplus teachers. We do not think that these issues should be lumped together.

MR RONNY TONG (in Cantonese): *President, it seems that the Secretary is completely detached from the real world. These four schools are all regarded as Band Three secondary schools. Teachers think that way, and so do students. And, most of the students they admit are Band Three students. We cannot find students from any other bands. The cause of the problem is the reduction of classes in these four schools. May I ask the Secretary what will happen after those secondary schools which are regarded as Band Three schools have reduced their classes as required by the Education Bureau? Does the Government have any strategy on class reduction in Band Three secondary schools?*

PRESIDENT (in Cantonese): Mr TONG, your follow-up question seems to have deviated from your supplementary just now. Since one supplementary can only pose one question

MR RONNY TONG (in Cantonese): *President, it is relevant. I do not think that the Secretary has answered my supplementary.*

PRESIDENT (in Cantonese): The Secretary has actually done so, only that you are not satisfied with his reply. Members are not supposed to start any debate. I wonder if the Secretary has anything to add.

MR RONNY TONG (in Cantonese): *I hope the Secretary can get the point of my supplementary question.*

PRESIDENT (in Cantonese): I believe he can.

MR RONNY TONG (in Cantonese): In the real world, these schools are regarded as Band Three secondary schools. They are now affected by class reduction. Can the Secretary answer this question, rather than talking generally about students?

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

SECRETARY FOR EDUCATION (in Cantonese): President, I can catch Mr TONG's point.

Actually, the so-called Band Three secondary schools referred to by Mr TONG are also mentioned in part (b) of my main reply. The several schools in question are not the only so-called Band Three secondary schools in Hong Kong. There are altogether more than a hundred of them. No students will be rendered unable to study in these schools by a mere reduction of two or three in their number.

President, the problem before us is one of too many schools but too few students. This is the reason for our present dilemma. We are presented a very painful choice. Members must not think that I want to implement a policy of "culling" these schools. We do not have such a policy.

Members may still remember how this proposal came about. Back in the year 2002-2003, the Audit Commission advised that we should deal with the problems arising from an increasing number of schools but a decreasing number of students. After so many years, we have accumulated plenty of bitter experience in dealing with the related problems from primary education through to secondary education. What we are doing, as I have said many times before, is to reduce the resultant shock. I know that we are bound to take certain actions, but in any case, I hope that we can reduce the shock at the same time and minimize the effects on schools, parents and students. Therefore, we have proposed certain special schemes for the affected schools, such as development schemes, in the hope of minimizing the shock.

MR ANDREW CHENG (in Cantonese): *President, I wish to ask a follow-up question on the Secretary's student-based approach.*

The Secretary claims that his approach is student-based. But according to the parents of many students who are studying in those Band Three schools which are to be "culled", these schools can best cater for the needs of students belonging to this band in terms of curriculum, experience and resources. President, there are some 6 000 students who score zero points in the Hong Kong Certificate of Education Examination every year. And, there are also several thousand school drop-outs every year. Therefore, rather than focusing only on "culling" schools, should the authorities not retain or even establish some curricula and schools that can meet the needs of students belonging to this band, so that like students of other bands, they can also pursue senior secondary education and benefit from the NSS Academic Structure?

SECRETARY FOR EDUCATION (in Cantonese): President, just as I said in reply to Mr Ronny TONG's question, there are actually some 130 schools in Hong Kong, rather than simply three or four, which can cater for the special needs of Band Three students. The teachers in all such schools are equally

caring. They will also organize different activities to provide students with support. We recognize their achievements in this respect, so we will provide them with appropriate resource support, so that they can have the extra resources required for doing a good job of such work.

Members must not think that only the several secondary schools concerned can do well. Many other schools can do even better. I can give Members some examples. Every month, we will inspect two to three schools, and I myself have also inspected some schools. Naturally, there are both successful and unsuccessful schools. But we also observe that those successful schools can do even better than the three or four schools in question. What then are we trying to do now? Our aim is to amass experience, so that we can find out how we can turn something bad into good, and how we can turn crises into opportunities. We hope that making use of this opportunity, we can identify a greater number of new development schemes for the affected schools. President, we are going about this task. We hope that once the task is completed, we can announce all the details and let Members know what efforts we have been making.

For the time being, I can tell Members that precisely because we are aware of these students' lower academic abilities, we are following the direction of providing them with alternative opportunities. Under the NSS Academic Structure, it may be necessary to provide these students with a broader range of in-depth courses. These courses may not be academic in nature. And, we may provide courses on various trades, craft or other skills, so that the students concerned can still make contribution to society after graduation. It is often said that everyone can come to fame in his own trade. Some students may not perform so good academically. But even so, we still hope that with the new mindset and all the new measures, we can introduce some novelty to help them develop their abilities.

MR TAM YIU-CHUNG (in Cantonese): *At present, the Government will determine whether to close down a school on the sole basis of student intake. Have the authorities ever considered the adoption of other criteria, such as the value-adding indexes of schools, when deciding whether the subsidy for a certain school should be reduced? Besides, we also observe that while some schools are full of enthusiasm, they are nonetheless unable to admit enough students due to the general population decline of their districts. If the Government penalizes*

them by reducing their subsidies, that is, if the Government decides on their continuation or otherwise on the sole basis of student intake, will it thus victimize some good schools? Therefore, apart from the number of students, should some other criteria be drawn up, such as school support for students and parents' assessments of schools?

SECRETARY FOR EDUCATION (in Cantonese): President, we must of course also consider the factor mentioned by Mr TAM. And, as a matter of fact, we have already taken it into account. However, I would like to draw Members' attention to part (c) of my main reply. The schools concerned actually face a very bad situation. They can each enrol a dozen or so to 20 S1 students only. We only require each of them to enrol at least 60 S1 students, but still, they cannot make it. There are to be three classes of S1 in a school. On the basis of 40 or so students in one class, it can be computed that as long as the S1 enrolment of a school can exceed the number of students for one class (Appendix 1), it will be permitted to continue operation. But many schools still fail to enrol this number of students, and they can each enrol a dozen or so to two students only.

Admittedly, there are many reasons for this. I think the remote locations of schools may be a major reason for the small numbers of applications they receive. Second, the small numbers of school-aged children in their districts may also produce some effects. And, maybe, parents do not find the objects of certain schools attractive enough. This may also be a reason. In view of all these reasons, even if we also consider other indexes I am not totally certain, of course We must not forget that all indexes are actually interrelated. If such a situation really arises, the other indexes of the school concerned will unlikely be outstanding because all should have been reflected in the situation. I will not say that we will definitely not do so. But experience tells us that if a school faces such a situation, we will have no alternative but to address it. We have already provided the schools concerned with alternatives. We must not treat these schools as normal cases.

PRESIDENT (in Cantonese): This Council has spent more than 19 minutes on this question. Since the Secretary spent relatively more time on one or two supplementary questions, I shall allow one more supplementary question.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the NSS Academic Structure involves some 400 secondary schools and several hundred thousand students. Several thousand of these students have indeed left their original schools for various reasons, becoming school drop-outs who wander around all day. After some time, they will regret and want to go to school again. But then, schools may not necessarily want to admit them because their academic results or conduct may not be up to scratch.*

That being the case, will the Government consider establishing a separate category of subsidized schools in different districts to supplement the NSS Academic Structure? The continued operation of such schools should not be determined by S1 enrolment and the number of classes. The reason is that while the S1 intakes of these schools are small, their total enrolment will increase upwards from S2 and S3 due to their admission of school drop-outs. This can allow school drop-outs or teenagers with special learning needs to have a second chance of receiving education in a new environment.

SECRETARY FOR EDUCATION (in Cantonese): President, we certainly welcome any school to develop in a particular direction, adopting a unique approach of enabling youngsters whose conduct is not so good to return to the right track. But we must regard this as an objective of education and position any schools in this way.

One or two schools in Ma On Shan are currently developing in this direction. Mr CHEUNG is very familiar with the situation of our schools, so he should know that these schools are doing quite well. I have personally visited these schools. As mentioned by Mr CHEUNG just now, these schools can indeed attract larger numbers of senior secondary students. But basically, they must still fulfil some minimum requirements, and the gap must not be too wide.

On the basis of our experience, we will consider how to enrich the contents in this direction. We may announce a more specific proposal in the future. In the meantime, I can only say that the idea is under consideration.

PRESIDENT (in Cantonese): Last oral question.

Impact of "Three Direct Links" on Air and Maritime Transport, Logistics and Tourism Sectors

6. **MS MIRIAM LAU** (in Cantonese): *President, the global financial tsunami has caused the economy to slow down and the volume of cargo transshipments has been declining in recent months. Moreover, the Mainland and Taiwan authorities signed four agreements early this month, which included the agreements on direct air, maritime and postal links across the Taiwan Strait ("Three Direct Links") and, as a result, both passenger and cargo traffic between the two places will no longer have to go via Hong Kong. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the impact of the above agreements on the air and maritime transport, logistics and tourism sectors in Hong Kong; if it has, of the details of the assessment, and how the Government will assist these sectors in consolidating their position in the region, so as to withstand the impact of the "Three Direct Links";*
- (b) *whether it has actively prepared for the impact on the above three sectors of further expansion of the "Three Direct Links" in future, with a view to achieving a win-win situation for the Mainland, Taiwan and Hong Kong; if it has, of the details; if not, the reasons for that; and*
- (c) *given that the Government indicated early this year that it was studying how to enable Hong Kong to play a part in our country's "Twelfth Five-Year Plan", of the latest progress of the part of the study relating to the above three sectors, and whether it has expedited the study in the light of the signing of the agreements on the "Three Direct Links"?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): *President, since Ms LAU's question has a pretty profuse and extensive coverage, please give me some time to reply.*

- (a) The Mainland and Taiwan signed four agreements on 4 November this year, including the Cross-Strait Air Transport Agreement and

the Cross-Strait Sea Transport Agreement. The main provisions include the number of cross-strait chartered passenger flights will increase from 36 to 108 every week, which can be operated throughout the week instead of on weekends as at present, and the number of flight points on the Mainland will increase from five cities to a total of 21. There will be 60 cross-strait chartered cargo flights per month, with two flight points on the Mainland and two flight points in Taiwan. Each side may add another 15 flights during the peak season from October to November. As for sea transport, the Mainland will open 63 ports and Taiwan will open 11 ports. Yet, the agreement is only applicable to "vessels of Mainland/Taiwan capital which are either registered in Hong Kong, or are registered with flags of convenience and are currently engaged in cross-strait direct shipping at selected ports, cross-strait transit container liner transport, and in transport of stone, sand and gravel as well as with special approval".

The HKSAR Government has been following closely the development of the "Three Direct Links" in order to assess the impact on Hong Kong and to seize new opportunities. Our preliminary assessment is that the number of Taiwan travellers going to and from the Mainland through the Hong Kong International Airport (HKIA) will be affected to a larger extent. The impact on air cargo is expected to be more on transshipment cargo as such cargo now simply has airside transfer at the HKIA without involving other logistics processes. Last year, that is, 2007, Taiwan travellers made about 2.7 million passenger trips to and from the Mainland via the HKIA, about 11.2% of the annual passenger throughput of the airport. Air cargo transshipments handled at the HKIA in the same year reached 280 000 tonnes, about 7.4% of the HKIA's annual cargo throughput. We will keep a close watch on the actual impact on the air passengers and cargo flows upon its implementation.

As for sea freight, notwithstanding that the "Mini Direct Links" were established in 2001, 604 000 TEUs of transshipment cargo from the two sides were shipped to and from the Pearl River Delta (PRD) Region via Hong Kong last year, representing 3% of the total laden container throughput of Hong Kong. Therefore, we believe that with our cost and geographic advantages, the "Three Direct Links" will have relatively less impact on Hong Kong's role in transshipment

for PRD port. In 2007, that is, last year, transshipment from the two sides via Hong Kong to and from ports outside the PRD totalled 134 000 TEUs, representing 0.7% of Hong Kong's total laden container throughput. Under the agreement, although quite a number of ports will be open, the vessels permitted to operate must be of Mainland/Taiwan capital and are either registered with flags of convenience or in Hong Kong. While the development will affect Hong Kong's role as a transshipment port, it should be on the whole beneficial to container and bulk cargo shipping operators. It will also have positive impacts on our maritime services such as shipping registration and ship insurance businesses.

In respect of tourism, cross-strait direct flight is conducive to the development of business and leisure travels in the region. This would bring benefits to the tourism industry in Hong Kong, but it is believed that the number of Taiwan same-day transit travellers through Hong Kong will decrease. Nonetheless, we believe every cloud has a silver lining.

The HKSAR Government is in support of the implementation of the "Three Direct Links". Stable and harmonious cross-strait relations will help to promote economic activities among the Mainland, Taiwan and Hong Kong in the long run, which will increase the number of business travellers and tourists, and the volume of trade and cargo. This will benefit our aviation and logistics industries if they, with their wealth of experience, can seize the opportunities and enhance their competitiveness.

The Government will continue to provide an enabling environment for the shipping and logistics industries to strengthen their position in the region. Specific measures include: Firstly, to expand Hong Kong's connectivity with the Mainland and other parts of the world to increase passenger flow and cargo sources, as well as to strengthen Hong Kong's status as an international maritime centre and a regional hub in Asia. In this connection, the cross-boundary projects that we are actively pursuing include the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the Hong Kong-Zhuhai-Macao Bridge and the preliminary study on the Hong Kong-Shenzhen Airport Rail Link. Moreover, we will continue to proactively seek expansion in the bilateral air services arrangements

between Hong Kong and our aviation partners, so as to create opportunities for the aviation and logistics industries to sustain growth and develop. Secondly, to expand the handling capacity for passenger and cargo flows, such as increasing the handling capacity of air cargo terminals and dredging the Kwai Tsing container basin and its approach channels to meet the draught requirement of new generation ultra-large container vessels. Thirdly, to implement measures to enhance the competitiveness and develop business opportunities for the local shipping and logistics industries, including those on co-operation with the Mainland, cross-boundary clearance, liaison among the port and transport trades, as well as promotion and publicity.

In addition, the Tourism Commission has been maintaining close liaison with the travel trade and the Hong Kong Tourism Board to grasp the latest development and accordingly adjust our tourism promotion strategy. They will continue to enhance the quality of our tourism services and Hong Kong's attractiveness. They will also continue to develop "multi-destination" travel itineraries, Meetings, Incentives, Conventions and Exhibitions (MICE) tourism and cruise tourism so as to open up new source clientele. In the policy address released in October, the Chief Executive has announced new measures to provide greater convenience for business visitors and tourists from Taiwan. We believe these facilitation measures would help attract more Taiwan visitors to Hong Kong and facilitate extension of their stay in the city.

- (b) In addition to the policies and initiatives that I mentioned earlier, the HKSAR Government is fully prepared to grasp the opportunities brought about by the peaceful development of the strengthened cross-strait relations.

With a view to encouraging trade and economic exchanges with Taiwan, the Hong Kong Trade Development Council has set up a branch office in Taipei. Besides, in order to foster closer co-operation in areas such as trade, investment and tourism between Hong Kong and Taiwan, we are encouraging local business leaders and Taiwan businessmen in Hong Kong to organize a non-governmental "Hong Kong/Taiwan Economic Co-operation Committee" with the aim of providing a platform for direct dialogue

between business enterprises in the two places, thereby promoting friendship and understanding. In fact, we have formed similar bilateral committees with our major trading partners such as the United States, the European Union and Japan. All these committees are private sector-led with similar representation from both sides and supported by respective governments.

Moreover, an inter-departmental high-level steering committee led by the Financial Secretary is in place. Various immediate measures are being implemented by relevant bureaux. The Committee will continue to deliberate on medium- to the long-term action plans, and formulate development strategies.

- (c) The initial preparation and drafting work of the National 12th Five-year Plan is expected to commence next year in 2009. To complement the work, the HKSAR Government has established direct contact with the National Development and Reform Commission (NDRC), the mainland body responsible for co-ordinating the preparation of the 12th Five-Year Plan. On this basis, we would identify appropriate major topics relevant to Hong Kong for further exchanges with the NDRC and other relevant mainland authorities. The relevant HKSAR Policy Bureaux will conduct studies on the selected topics as appropriate, and take into consideration the impact of the relevant latest developments (including those related to the "Three Direct Links") on Hong Kong's maritime, logistics and tourism industries.

MS MIRIAM LAU (in Cantonese): *President, in part (a) of the main reply, the Secretary said that the impact on air cargo was expected to be more on transshipment cargo. As far as I understand it, our neighboring regions, such as Singapore, Korea, Taiwan, Thailand, Malaysia and even Dubai, have lifted the control over cargo transshipment to enable smooth transshipment of re-export goods. In the face of the impact of the "Three Direct Links", may I ask the Secretary whether the Government will consider streamlining the current declaration procedures or even abolishing the declaration charges of re-export goods in Hong Kong? Furthermore, will the Government consider relaxing the existing control over re-export goods so as to enhance the competitiveness of the local freight forwarding and logistics industry?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): It must be noted that Hong Kong being a free port is actually more convenient than many places in terms of restrictions in many aspects. We must also bear in mind that the Government and the industry have tried their best to improve the declaration arrangements by all means, which include exploring the possibility of electronic declaration. And yet, given the threat of terrorist activities prevailing in the international community, issues relating to either declaration or customs clearance are handled with great care. To ensure that Hong Kong is a free port where transshipment is safe, certain formalities are definitely required. We will nonetheless listen to the trade's views and see if there is anything we can do to cater for the needs of the international community at the same time. We will not hesitate if something can be done.

MR IP WAI-MING (in Cantonese): We learnt from the reply given by the Secretary earlier that both passenger and cargo throughputs at HKIA would probably be affected, and the authorities would therefore keep a close watch on the issue. However, we fail to see any specific measures that would be implemented by the Secretary to help maintain the significant growth of our passenger and cargo throughputs in case a decrease is recorded.

May I ask the Secretary, under the existing circumstance, whether he has any plan to discuss with the Mainland about the control of airspace to allow more aircraft movements at the HKIA and maximum utilization of the current two runways?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, insofar as air freight is concerned, we estimate that the major impact actually falls heavily on transshipment cargo, that is, cargo which simply has airside transfer in Hong Kong for re-export to other places. Not many processing or value-added processes would be done in Hong Kong. As evident in last year's figures, there were only 280 000 tonnes of goods a year, accounting for about 7.4% of the HKIA's cargo throughput only. When the economy is good, the airport's cargo throughput can have an annual growth of as high as 5% to 6% on average. Therefore, if we can increase the passenger and cargo throughputs (cargo throughput in particular) of our hinterland, I believe the effect of the so-called "Three Direct Links" on us would be minimal.

MR PAUL TSE (in Cantonese): *In the second paragraph of part (a) of the main reply, the Secretary said that the number of passenger trips made by Taiwan travellers to and from the Mainland via the HKIA was astonishing, reaching more than 10%. And yet, he did not specify if this 10% includes those staying in Hong Kong, or purely refers to those so-called transit travellers. Looking at the fourth paragraph of part (a) of the main reply, the Secretary has just stated very briefly that even the leisure travel in the entire region would benefit. There is, however, no substantive basis for this assertion at all. What is most worrying to me is the seventh paragraph of part (a) of the main reply, because nothing more than perfunctory strategies are proposed, such as enhancing the quality and attractiveness of our tourism services, developing "multi-destination" travel itineraries, MICE tourism and cruise tourism. These are indeed hollow responses. If we have to rely on these measures to tackle the impending loss of some 10% of passenger throughput, I am afraid this is nothing but an ostrich policy.*

In this connection, will the Bureau consider doing something practical? For example, will it consider granting visa-free arrangement to Taiwan travellers to facilitate their entry into Hong Kong at any time and to stay as they wish without the need to go through the troublesome procedure of applying for a visa in advance, or further enhancing our attractiveness by granting airport tax relief? If Taiwan travellers entering Hong Kong in transit are exempted from the payment of airport tax, they may choose to stay. This will genuinely help recover the reduced passenger throughput as a result of the implementation of the "Three Direct Links". I wonder what the Secretary will say about this.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the 2.7 million passenger trips just mentioned by me simply refers to the number of passengers in transit but not those who have entered Hong Kong. Insofar as the implication is concerned, we said that this figure accounts for 11% of the current passenger throughput at the HKIA. However, I wish to provide another figure for Members' information. In the past two years, when the economy was good with normal development, our airport recorded an average growth of 10%. The recent drop in passenger throughput is probably attributable to the global economic environment or transit. However, we believe the loss can be recovered when the economy improves.

What can be done to facilitate the entry of Taiwan residents? We will introduce two measures to further facilitate the entry of Taiwan residents in January next year, which include lifting the restriction that only two iPermits can be applied within 30 days, and extending the period of stay in Hong Kong from 14 to 30 days for holders of iPermits and Multiple Entry Permits. These measures will provide Taiwan residents (particularly the pack-and-go travellers) with further convenience and flexibility in planning their itineraries.

For the so-called visa-free arrangement, we would review the visa policy from time to time and make adjustments in the light of the situation. The review will take several factors into consideration, such as reciprocal arrangements, immigration control and security considerations. The situation of the countries and regions concerned will also be considered. Should the industry voice such a request, the Policy Bureau concerned will see what further improvements can be made.

MR PAUL TSE (in Cantonese): *How about the airport tax?*

PRESIDENT (in Cantonese): Mr Paul TSE has asked about airport tax relief earlier. Secretary, do you have anything to add?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): For the airport tax, if my understanding is not wrong, I believe he referred to the HKIA charges. Ever since the HKIA come into operation, there has not been any increase

MR PAUL TSE (in Cantonese): *I meant the air passenger departure tax.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Insofar as the air passenger departure tax is concerned, we find that the impact on passengers is not significant at all. As for the fuel surcharge, we think that the recent plunging of fuel prices should have brought great benefits to travellers.

PRESIDENT (in Cantonese): This Council has spent more than 20 minutes on this question. Since the Secretary has used more than 10 minutes to give the main reply, which is pretty long, I therefore allow one more Member to raise a supplementary question.

MR CHAN KAM-LAM (in Cantonese): *President, in the main reply, the Secretary said that the Government also supports the "Three Direct Links", which Members should agree too. The point is, however, we should not neglect the fact that it would certainly have an impact on tourism, logistics and aviation. May I ask the Government if it will change its stance on such future projects as Container Terminal 10 and the new airport expansion plan — which have been mentioned by us before — as a result of the implementation of the "Three Direct Links" or the current economic impacts?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Compared with the difficulties faced by us in respect of air and maritime or logistics services, the global economic impact on us is actually much greater than the projected impact of the "Three Direct Links". And yet, how long would the effect last? Members may have different projections, but we can see that Hong Kong being an international hub of air and maritime transport, the long-term need still exists. Therefore, at this stage, we do not see any need to revise the HKIA's development. In other words, the Airport Authority will continue with the 2030 planning study to see if there is a need to expand the airport capacity, like the need to build a third runway. For the time being, the plan will remain unchanged. This is likewise the case with the container terminal, and we will keep a close watch on the overall demand for container terminals. At this stage, we do not see any need to contract because these facilities are built to cater for the long term.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Anti-mosquito Measures

7. **MR ALAN LEONG** (in Chinese): *President, according to the ovitrap indices released each month by the Food and Environmental Hygiene*

Department (FEHD), readings for September in three districts were within the alert zone of 20% to 40%, and the readings in Lam Tin were within the alert zone for three times since the beginning of this year. In this connection, will the Government inform this Council:

- (a) whether it has reviewed the effectiveness of the current anti-mosquito measures being carried out in various districts; if it has, of the results of the review; if not, how it finds out the effectiveness of the anti-mosquito measures; and*
- (b) of the new anti-mosquito strategy to be formulated to solve the mosquito problem?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, our reply to the Member's two-part question is as follows.

- (a) Since 2004, inter-departmental district anti-mosquito task forces have been set up in all districts, with a view to co-ordinating governmental efforts in preventing and controlling mosquito infestation at the district level, encouraging community involvement in anti-mosquito campaigns, and evaluating the effectiveness of anti-mosquito operations in respective districts. In addition, the Food and Health Bureau has set up the Anti-mosquito Steering Committee involving relevant departments, which will meet before each rainy season to map out directions for territory-wide anti-mosquito efforts for that year. The Steering Committee will regularly monitor anti-mosquito work in districts, and if necessary, co-ordinate the Government's anti-mosquito efforts at the bureau level.

On reviewing the effectiveness of anti-mosquito measures being carried out in various districts, the FEHD has been closely monitoring mosquito infestation reports from districts and findings from daily inspection and survey. It has also set up ovitraps at 38 different locations in various districts to monitor the breeding of *Aedes albopictus*. The Monthly Ovitrap Indices (MOIs) recorded in the first 10 months of 2008 are lower than the average MOIs of the relevant months recorded between 2000 and 2007. Indeed, the overall figures' downward trend over the past few years indicates that mosquito control efforts in the territory have been effective.

- (b) As mentioned in part (a), the present data indicate that the mosquito control work in the territory has been effective. The FEHD will continue to closely monitor the trend of ovitrap index in various districts and other related data and information, including reports on mosquito-borne diseases released by the World Health Organization as well as authorities of neighbouring areas, latest technological developments in the prevention and control of mosquitoes and continued assessment of the effectiveness of government anti-mosquito measures, with a view to fine-tuning relevant policies and work plans as appropriate. In the meantime, the Government will continue to implement various measures which have been demonstrated to be effective in anti-mosquito work through prevention and control of mosquitoes.

Electric Vehicles

8. **MS AUDREY EU** (in Chinese): *President, since the 1994-1995 financial year, the Government has exempted motor vehicles which are propelled solely by electric power and do not emit any exhaust gas (electric vehicles) from first registration tax, so as to encourage vehicle owners to buy such vehicles. In this connection, will the Government inform this Council:*

- (a) *of the amount of tax revenue foregone in the past three financial years as a result of exempting electric vehicles from first registration tax;*
- (b) *of the number of electric vehicles newly registered in the past two years; and*
- (c) *apart from exemption from first registration tax, what measures the Government had adopted in the past two years to encourage more vehicle owners to buy electric vehicles?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) According to the Transport Department's record, there were 31 newly registered electric vehicles in Hong Kong in the past three financial years. The first registration tax forgone was \$105,000.

- (b) There were 23 newly registered electric vehicles in the past two financial years.
- (c) At present, the first registration tax rates for private cars range from 35% to over 85% of the selling price. For a private car selling at \$150,000, the first registration tax payable is \$52,500. The first registration tax rate increases with the selling price of a private car. If the selling price of a private car is \$300,000, the first registration tax payable accounts for 50% of its selling price. As far as economic consideration is concerned, exempting the first registration tax of electric vehicles can provide the necessary impetus to encourage car owners to use electric vehicles.

Apart from exempting the first registration tax of electric vehicles, we also encourage vehicle manufacturers to bring in early to the local market suitable electric vehicle models that can satisfy vehicle owners' needs. At present, electric vehicles remain unpopular with vehicle drivers mainly as they suffer from long charging time for the battery and short driving range afforded by each charging as compared with each refilling of conventional vehicles. Moreover, vehicle owners are also concerned about the durability of their batteries. Electric vehicle manufacturers are endeavouring to overcome these technical hurdles. Should they be able to introduce early to the local market electric vehicles that could meet the practical needs of drivers, it will give the decisive push for promoting the use of electric vehicles.

Small House Applications in the New Territories

9. **MR LAU WONG-FAT** (in Chinese): *President, some indigenous villagers in the New Territories have conveyed to me that they are dissatisfied with the slow progress of the Lands Department in vetting and approving applications for the construction of small houses at present. In this connection, will the Government inform this Council of the following in the past three years:*

- (a) *the respective numbers of applications approved for the construction of small houses each year, as well as applications on the waiting list;*
- (b) *the annual number of applications for payment of additional premiums for the removal of the restriction on alienation clause*

from the land lease of a small house, and the total amount of premiums received in such applications; and

- (c) *the administration costs involved in processing the applications?*

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

- (a) The annual numbers of applications for small houses approved by the Government and applications for small houses on the waiting list for the past three financial years are as follows:

	<i>Financial year</i>		
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>
Number of applications approved by the Government	919	1 083	1 267
Number of applications on the waiting list	2 902	3 597	3 068

- (b) For the past three financial years, the Government has received 1 331 applications for the removal of the restriction on alienation clauses, and received a total premium of \$1.13 billion in respect of cases for the removal of the restriction on alienation clauses. Details are as follows:

	<i>Financial year</i>		
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>
Number of applications for the removal of the restriction on alienation clauses	436	422	473
Total premium received in respect of cases for the removal of the restriction on alienation clauses	\$320 million	\$370 million	\$440 million

- (c) The Lands Department does not have statistics on the administration costs for processing the applications for small houses.

Young People Engaged in Prostitution Activities

10. **MS STARRY LEE** (in Chinese): *President, a survey conducted by a political party in the middle of this year has revealed that the number of young girls engaged in prostitution activities under the name of "compensated dating" is on the rise. They advertise themselves and contact their clients mainly via discussion forums and chat rooms on the Internet. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of operations mounted by the police in various police districts in Hong Kong since January this year against prostitution activities conducted under the name of "compensated dating"; the number of persons arrested in the operations, the respective numbers of males and females engaged in prostitution (and the number of minors among them), as well as the number of persons convicted and the penalties imposed on them;*
- (b) whether it has assessed if the police operations against such prostitution activities are effective, and of the current number of such syndicates in Hong Kong;*
- (c) what measures have been taken by the police to combat such illegal activities taking place in the discussion forums and chat rooms on the Internet, and the enforcement difficulties encountered;*
- (d) of the number of cases received since January this year by the authorities in which people engaged in such prostitution activities requested for assistance, what assistance they requested and what assistance was provided by the authorities; and*
- (e) what specific measures will be adopted by the authorities in schools and the community to help young people understand the perils of such prostitution activities?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in the absence of Secretary for Security) (in Chinese): *President,*

- (a) and (b)*

"Compensated dating" is an expression which came into use in recent years. It usually refers to the participation of young girls or

individuals in financial need through public information platforms in social activities involving financial transactions. Some of these activities involve prostitution.

Under existing law, the act of prostitution itself is not illegal. Nevertheless, it is an offence for a man to have unlawful sexual intercourse with a girl under the age of 16. Various prostitution-related offences are stipulated under Part XII of the Crimes Ordinance (Cap. 200) with the objective of preventing the exploitation of others for the purposes of prostitution, combating organized prostitution activities, and lessening the nuisance to members of the public that vice activities may cause. The police are all along committed to combating all kinds of illegal prostitution activities, especially prostitution activities organized by syndicates and those involving underage girls, including illegal prostitution activities conducted under the guise of "compensated dating".

The police have not maintained statistics on enforcement actions taken against illegal prostitution activities conducted under the guise of "compensated dating", nor have they conducted data analysis on whether vice syndicates are engaged in illegal prostitution activities under the guise of "compensated dating". Nevertheless, the police will continue to take proactive enforcement actions to combat illegal prostitution activities and will adjust their strategies having regard to circumstances to ensure effective law enforcement.

- (c) To crack down on individuals who arrange prostitution activities through the Internet, the police conduct cyber patrol and enter the chat rooms or discussion forums of various websites to check if anyone arranges prostitution activities in any manner, and take enforcement actions whenever necessary. Since some of the websites involved are overseas websites, the police may encounter certain difficulty in ascertaining the identity of the suspects in such cases. Furthermore, the police often have to contact those who claim to provide or arrange sexual services in the course of collecting evidence and law enforcement, and may encounter difficulty during the process.

(d) and (e)

According to the experience of the relevant departments in handling such cases, even if the persons requesting assistance have engaged in

prostitution activities involving "compensated dating", they normally do not mention it specifically. The Administration does not maintain statistics on requests made by such persons for assistance. Based on the assessment of the relevant departments, such persons may seek assistance on matters relating to their studies, social life, emotions, relationship with family members, and so on. Support and counselling services will be provided through established channels.

The police, Education Bureau and Social Welfare Department have taken measures to help young people understand the harm caused by prostitution activities through inculcating in them a set of correct values. The relevant measures are summarized below:

- (i) The police have held talks for secondary school students to educate young people on the harm of prostitution activities. They have also organized seminars jointly with Education Bureau and other non-governmental organizations for principals, teachers and stationing social workers of secondary schools to brief them on how to handle students suspected of engaging in prostitution activities. The police will also organize seminars for parents of secondary school students to facilitate early identification should any of their children engage in prostitution activities. This would enable the parents to intervene as soon as possible and to help their children get back on the right track.
- (ii) The Education Bureau is committed to promoting the whole-person development of students in different stages of their learning. Students are taught to handle challenges and temptations in a rational and responsible manner and to make correct value judgments. As far as the curriculum content is concerned, sex education and other sex-related content (such as getting along with the opposite sex, making friends on the Internet and pre-marital sex) has already been covered by the curriculum framework of Moral and Civic Education. Learning themes on sex education and the harmful effects of prostitution are included in the curricula of a number of subjects. Liberal Studies, a core subject of the New Senior Secondary Curriculum to be introduced in the 2009-2010 school year, will also enhance discussions on related themes.

- (iii) The Social Welfare Department offers various welfare services to young people to prevent them from being led astray by undesirable influences during their growth. For example, the Department has implemented the "one school social worker for each secondary school" scheme since the 2000-2001 school year to offer appropriate support and counselling to students encountering difficulties in their academic studies as well as social and emotional development, including getting along with the opposite sex, falling in love, sex education, and so on. Social workers also make referrals for students in need to receive clinical psychological services having regard to the nature and seriousness of individual cases. The Department also provides young people with comprehensive support services and helps them integrate into the community through the 135 subvented Integrated Children and Youth Services Centres run by non-governmental organizations across the territory. The outreaching social work teams of these centres proactively approach and offer counselling, guidance and support services to young drifters, and refer them to other service units for follow-up where necessary.

Overnight Public Transport Service to and from Tseung Kwan O

11. **MR CHAN HAK-KAN** (in Chinese): *President, some residents have relayed to me that the current number of runs of overnight bus services to and from Tseung Kwan O is on the low side and the routes are circuitous. Moreover, there is no red public light bus or green public light bus (GMB) service between Mong Kok and Tseung Kwan O, causing inconvenience to the residents. In this connection, will the Government inform this Council whether:*

- (a) *it knows the respective average daily numbers of passengers of various overnight franchised bus routes to and from Tseung Kwan O;*
- (b) *it has reviewed if the current overnight public transport service to and from Tseung Kwan O is adequate, and of the criteria adopted for determining if the service need to be enhanced; if it has; of the results of the review; if it has not, the reasons for that; and*
- (c) *it will introduce overnight GMB routes between Mong Kok and Tseung Kwan O?*

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

- (a) The existing overnight franchised bus routes to and from Tseung Kwan O and their average daily passenger trips are as follows:

<i>Overnight franchised bus routes</i>	<i>Average daily passenger trips in September 2008</i>
Route N293 (Sheung Tak to Mong Kok East Station)	1 127
Route N796 (Tseung Kwan O Public Transport Interchange to Mong Kok)	572
Route N691 (Central (Macao Ferry) to Tiu Keng Leng)	635
Route N29 (Po Lam, Tseung Kwan O to Tung Chung Station Bus Terminus)	336

- (b) Similar to other public transport services, the Government would take into consideration factors such as changes in population and demand for transport services, as well as public views in adjusting the level of overnight public transport services to and from Tseung Kwan O. We would also need to consider the noise nuisances that may be caused by the operation of vehicles during night-time.

According to the survey findings, the average occupancy rates of the above franchised bus services during the peak hour range from 40% to 80%, while the daily average occupancy rates range from 18% to 63%. Having considered the coverage and carrying capacity of the above franchised bus routes, we are of the view that the current level of overnight public transport services to and from Tseung Kwan O is sufficient to meet passenger needs.

- (c) As the existing overnight franchised bus services between Mong Kok and Tseung Kwan O are sufficient to meet the passenger demand, we have no plan to introduce a similar overnight GMB service.

Passenger Liaison Groups

12. **DR DAVID LI:** *President, the Transport Department (TD) has all along encouraged public transport operators to form passenger liaison groups (PLGs)*

to gauge passengers' views on the quality and development of their services. Furthermore, a provision was added to the franchise granted to the "Star" Ferry Company Limited in December 2007 under the heading "Passengers Liaison Groups" requiring that "The Grantee shall at its own expense and to the satisfaction of the Commissioner make appropriate arrangements to liaise, communicate with and receive the opinions of the public for the purpose of assessing and improving standards relating to the performance of the Ferry Service". In this connection, will the Government inform this Council whether:

- (a) it knows the names of the PLGs presently in existence;*
- (b) public transport operators are required to regularly submit to the Government updated membership lists of PLGs;*
- (c) it had, in the past five years, issued detailed guidelines to the relevant public transport operators advising them on how to comply with the requirement of making arrangements "to the satisfaction of the Commissioner"; if so, of the nature of the guidelines; if not, how it determines whether the requirement has been complied with;*
- (d) TD sends its staff to attend or by other means to monitor the conduct of PLG meetings and meets with those PLG members who are not representatives of the public transport operators concerned, so as to ensure that PLGs are serving their intended purpose; and*
- (e) the Government or the Transport Advisory Committee had, in the past 10 years, evaluated the PLG scheme to determine ways to improve the scheme; if so, of the recommendations made in the evaluation reports concerned; if not, whether such reviews will be conducted?*

SECRETARY FOR TRANSPORT AND HOUSING: President, the reply to the above question is set out below.

- (a) Currently, such bodies established by public transport operators are usually named as "Passenger Liaison Groups". For example, the name of the PLG set up by the Kowloon Motor Bus (KMB) is "KMB Passenger Liaison Group".*

(b), (c) and (d)

At present, all franchised bus and franchised ferry operators have established PLGs in accordance with the relevant provisions in their franchises, so as to have a better understanding of passengers' views on their public transport services through direct communication. The operators usually invite public participation in the PLGs via various channels, and they are not required to submit to the Government membership lists of PLGs. The TD has sent representatives to attend PLG meetings, or requested the operators to provide information about PLG arrangements and the issues discussed. The operators would report to the TD the views and suggestions collected from PLGs, as well as their follow-up actions.

As regards other public transport services, individual ferry and public light bus operators have also set up PLGs or similar mechanisms to collect passengers' views on their services.

As for railways, the MTR Corporation Limited (MTRCL) is required to establish a set of Customer Service Pledges, and to develop appropriate arrangements for measuring customer satisfaction with its railway services and for handling passengers' complaints and suggestions. The MTRCL achieves the above through various means, including biannual questionnaire surveys, regular "Coffee Evenings", in-train interviews with passengers by MTRCL staff, dedicated radio programme on railways services, customer service hotline and online suggestion form. The MTRCL is required to furnish a report to the Commissioner for Transport (C for T) every year summarizing the complaints and suggestions it has received during the report period in relation to its railway services, and any action it has taken. It also submits to the C for T an annual report on its service performance. In addition, the MTRCL provides information on its performance quarterly via production of leaflets and updates on its website.

(e) The Government has been monitoring the work of the franchised public transport operators in respect of the PLGs, examining the reports submitted by the operators and providing suggestions for improvement. The franchised public transport operators' overall performance in complying with the franchise requirements,

including those relating to PLGs, will be taken into account when we consider the renewal of their franchises. The Government will review the PLG mechanism from time to time and take follow-up action as appropriate.

People Being Harassed Following Unauthorized Use of Their Personal Data by Others

13. **MR CHEUNG HOK-MING** (in Chinese): *President, some members of the public have relayed to me that due to unauthorized use of their residential addresses by others to apply for credit cards, some debt collection agencies (DCAs) hired by financial institutions visited their homes to recover debts, and such harassment did not stop even though they had reported their cases to the police. In this connection, will the Government inform this Council:*

- (a) *of the current measures to protect the above victims;*
- (b) *whether it has assessed if card-issuing institutions have contravened the Personal Data (Privacy) Ordinance (PDPO) (Cap. 486) by disclosing the personal data to DCAs they hired without the authorization or consent of the data subjects; if it has assessed that there is no contravention, of the measures to protect the privacy of the data subjects; and*
- (c) *as the Law Reform Commission (LRC) recommended in its Report on Stalking released on 30 October 2000 that the pursuit of a course of conduct amounting to harassment should be criminalized, of the progress and results of the studies conducted by the Constitutional and Mainland Affairs Bureau on the recommendation?*

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

- (a) A person who wrongfully obtained and used another person's address in application for credit card may be guilty of fraud under section 16A of the Theft Ordinance (Cap. 210), or guilty of obtaining pecuniary advantage by deception under section 18 of Cap. 210; and may on conviction be liable to imprisonment of up to 14 years and 10 years respectively.

Section 23.3 of the Code of Banking Practice, issued jointly by the Hong Kong Association of Banks and the Deposit-Taking Companies Association, specifies that "card issuers should satisfy themselves about the identity of a person applying for a card and provide the applicant with details of the identification needed". The module of the Supervisory Policy Manual of the Hong Kong Monetary Authority (HKMA) on the management of credit card business also provides authorized institutions (AIs) with, amongst other things, guidance on verification of documentation and fraud control. The guidance includes the following aspects:

- (i) valid documents for verification of the identity (including address proof) of new customers should be obtained;
- (ii) AIs that process credit card applications through mail should put in place sufficient safeguards to prevent the use of stolen information (for example, theft of ID cards) for getting applications approved; and
- (iii) the risk of credit card misuse may be reduced by introducing measures to prevent application fraud (for example, through thorough checks on applicants, including name and address verification, and restricted access to and controls over alteration of customer information).

In addition, the Code of Banking Practice requires AIs to prohibit the DCAs they employ from collecting debts by harassment or other improper tactics. If AIs are aware of any improper practices of their DCAs, they should consider terminating their relationship with that agency. The HKMA monitors compliance of AIs with the Code as part of its regular supervision.

A number of statutory provisions are in place to combat harassment (such as blackmail, criminal intimidation, criminal damage and common assault). Victims are encouraged to report the case to the Hong Kong Police Force. The police will carry out investigation upon receipt of the report, and initiate arrest and prosecution where there is sufficient evidence.

- (b) In accordance with Data Protection Principle (DPP) 1 of the PDPO (Cap. 486), credit card-issuing institutions are required to inform

credit card applicants before or upon issuance of the credit card the purpose for which their personal data may be used. DPP 3 provides that personal data shall not, without the prescribed consent of the data subject, be used for any purpose other than the original purpose of collection or a directly related purpose. If the disclosure of personal data to DCAs is within or directly related to the original purpose of collection of data by the card-issuing institution, such disclosure will not contravene the PDPO.

- (c) The LRC Report on Stalking proposed the introduction of anti-stalking legislation, which renders the pursuit of a course of conduct causing another person alarm or distress a criminal offence and a civil wrong. We are assessing the implications of the LRC recommendations in consultation with relevant bureaux and departments and in the light of the latest overseas development. The LRC proposal has attracted much concern among interested parties in the community. Some aspects of the proposal are controversial. In particular, media associations have expressed concern that the proposal might undermine press freedom. We need to reconcile the differences and balance the legitimate interests of the parties concerned. Upon completion of the assessment, we will consult the relevant parties on the LRC recommendations with a view to reaching a general consensus within the community on the way forward.

Appointment of Monetary Authority

14. **MS EMILY LAU** (in Chinese): *President, section 5A(1) of the Exchange Fund Ordinance (EFO) (Cap. 66) provides that "The Financial Secretary shall appoint a person to be the Monetary Authority on such terms and conditions as he thinks fit" but the tenure of office and retirement age of the Monetary Authority (MA) is not specified in the Ordinance. The Government advised in its paper to this Council in April this year that "The legal provision in the EFO allows maximum flexibility for the Financial Secretary (FS) in determining the appropriate conditions on which the MA is appointed", "FS, in considering the MA's appointment, will take into account all relevant factors such as the views of the Governance Subcommittee of the Exchange Fund Advisory Committee as appropriate". In this connection, will the executive authorities inform this Council:*

- (a) *whether the incumbent MA, who is presently over 61 years old, will retire in September next year, and what criteria the authorities used in determining his retirement date;*
- (b) *whether it will conduct a review on the appointment mechanism for the MA; if it will, of the details; if not, the reasons for that;*
- (c) *given that the existing legislation allows maximum flexibility for the Financial Secretary to handle the MA's appointment, how the authorities ensure transparency and accountability of the mechanism; and*
- (d) *whether the authorities will make reference to the appointment arrangements for central bank heads in major overseas economies, including the United States, the United Kingdom, the European Union, Australia and Japan, and stipulate in the relevant legislation the tenure of office of MA as well as the criteria for determining his remuneration; if they will, of the details; if not, the reasons for that?*

FINANCIAL SECRETARY (in Chinese): President, section 5A of the EFO provides the Financial Secretary with adequate flexibility to determine the appointment of the MA and the related terms and conditions. When making the appointment, the Financial Secretary will consider a number of factors, including competence, experience, expertise and age of the candidates. EFO places no restriction on the Financial Secretary or the Administration reviewing the appointment of the MA and the related arrangements.

The Financial Secretary will take account of the views of the Governance Subcommittee of the Exchange Fund Advisory Committee in assessing the performance of the top management of the Hong Kong Monetary Authority and make an appropriate decision.

The administrations of different countries will make arrangements in accordance with their own laws, political systems and historical background. The arrangements in Hong Kong have been found effective and suitable for our situation.

Promotion of Eco-tourism

15. **MR JAMES TO** (in Chinese): *President, regarding the promotion of eco-tourism, will the Government inform this Council:*

- (a) *whether it knows the number of eco-tours with itineraries covering marine parks or marine reserves in the past three years;*
- (b) *of the number of persons prosecuted for violating the Marine Parks and Marine Reserves Regulation (Cap. 476 sub. leg. A) in each of the past three years, together with a breakdown of the offences charged against such persons;*
- (c) *of the current number of staff employed to work in marine parks and marine reserves; whether the Government has reviewed if the manpower is adequate; if so, of the results of the review;*
- (d) *as the Hong Kong Tourism Board (HKTB) organized with the industry an islands hopping tour and other eco-tourism activities in recent years, whether the Government has reviewed the effectiveness of such activities, and of the number of overseas visitors participating in such activities; and*
- (e) *given that from 2004 to May this year, the Government provided training through the Skills Upgrading Scheme (SUS) for some 360 tourist guides and staff of travel agencies to enhance their knowledge in guided nature eco-tours, whether the Government has ascertained if the training quota concerned can meet the demand and whether these people have taken up work as eco-tour guides upon completion of such training?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, my reply to the five parts of the question is as follows:

- (a) At present, there are four marine parks in Hong Kong, including (i) Yan Chau Tong Marine Park, (ii) Hoi Ha Wan Marine Park, (iii) Sha Chau and Lung Kwu Chau Marine Park, and (iv) Tung Ping Chau Marine Park and a marine reserve. Over the past three years, the Agriculture, Fisheries and Conservation Department (AFCD) organized 480 guided eco-tours in the marine parks. In addition,

the number of activities related to eco-tours held by other organizations in the marine parks was around 950. Under the current policy, the AFCDC does not accept the holding of eco-tour activities in the marine reserve.

- (b) Over the past three years, 333 persons were prosecuted by the AFCDC for committing offences in contravention of the Marine Parks and Marine Reserves Regulation (Cap. 476A). Breakdown of the relevant offences are listed as follows:

	<i>November 2005 to October 2006 (No. of persons being prosecuted)</i>	<i>November 2006 to October 2007 (No. of persons being prosecuted)</i>	<i>November 2007 to October 2008 (No. of persons being prosecuted)</i>
Collecting or injuring marine life	4	8	22
Fishing	63	64	38
Littering	19	48	23
Anchoring outside mooring sites	7	8	9
Operating water scooters or water-skiing	2	0	0
Operating remote-controlled model boats or aeroplanes	0	1	1
Swimming or carrying out boating within a marine reserve	0	14	1
Using fishing devices with high voltage electric charge for the purpose of stunning fish	0	1	0
Total	95	144	94

- (c) At present, 23 staff of the AFCDC are responsible for patrol of marine parks and the marine reserve, as well as enforcement of the relevant legislation. The authority will make flexible use of existing resources to protect the marine parks and the marine reserve.
- (d) The Tourism Commission, in collaboration with the HKTBC and the travel industry, has already been actively making optimum use of existing resources to promote green tourism under the principles of

nature conservation and sustainable development, so as to enable visitors to appreciate the unique natural scenery of Hong Kong.

The HKTB introduced the Nature Kaleidoscope Programme in September 2006, which included the Northeast New Territories Islands Hopping Tour (referred to as "islands hopping tour" in the question), as a pilot scheme to gauge market response in relation to green tourism, as well as to encourage the travel industry to organize similar activities. During the trial period from September 2006 to February 2007, a total of 472 visitors joined the Northeast New Territories Islands Hopping Tour. Over 70% of the respondents were satisfied with the tour and 96% of them indicated that they would recommend the tour to their families and friends. Given the positive feedback from visitors and the travel industry, the HKTB promoted the Northeast New Territories Islands Hopping Tour as a regular programme starting from September 2007. Apart from joining hands with the travel industry to enhance the tour route, the tour has been operated by the travel industry on a commercial basis from September to February each year.

- (e) To enhance the travel industry's knowledge of eco-tourism, the Government has, since 2004, provided training courses on nature appreciation through the SUS for tourist guides and staff of travel agencies. So far, some 400 persons have completed such training.

As reflected by the training institutes, the quota of the training courses could meet the needs of the travel industry. The travel industry also considers that the training courses are conducive to enhancing industry members' knowledge of eco-tourism. The Tourism Industry Group of SUS is considering organizing an advanced course on nature appreciation, including rock appreciation, so as to cope with the development of eco-tourism.

Telemarketing Calls Made to Mobile Telephone Users

16. **MR LAU KONG-WAH** (in Chinese): *President, regarding person-to-person telemarketing calls, will the Government inform this Council:*

- (a) *of the number of complaints received by the authorities over the past two years from mobile telephone users about such marketing*

activities and, among these cases, the respective numbers of those in which the complainants alleged that the calls had caused nuisance or were made with intent to defraud, or queried how the marketers obtained their telephone numbers; of the details of those cases involving fraud and the follow-up actions taken by the authorities; and whether the authorities have investigated if the malpractice of selling personal data was involved in such cases; and

- (b) *whether it has examined if there has been an upward trend in such marketing activities over the past two years; if there has been such a trend, of the circumstances under which the authorities will consider regulating such activities through legislation?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the Unsolicited Electronic Messages Ordinance (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.

The UEMO excludes person-to-person telemarketing calls mainly because most business establishments in Hong Kong are small and medium enterprises, which rely on electronic communication as a means of marketing. As such, in drawing up the UEMO, the Government has 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. The Office of the Telecommunications Authority (OFTA) commissioned a survey in late October this year to assess the extent of the problem of person-to-person telemarketing calls and to gauge the views of the public towards such calls.

Separately, the Personal Data (Privacy) Ordinance (PDPO) contains provisions concerning use of personal data in direct marketing. According to section 34 of the PDPO, a data user who uses personal data for direct marketing purposes has to cease to use such data if the person who is the subject of the data so requests.

The specific reply to the question is as follows:

- (a) Since the full commencement of the UEMO until 12 November 2008, the OFTA handled a total of 4 869 cases, of which 61 were related to person-to-person calls. Among these 61 cases, 37 involved commercial marketing activities¹ and four were opinion survey calls. For the remaining 20 cases, the complainants did not provide information on the contents of the calls.

Among the above 61 cases, the complainants in nine cases indicated that the person-to-person calls had caused inconvenience or nuisance to them and the OFTA had advised one complainant to consider reporting the nuisance to the police; the complainants in five cases queried how the marketers have obtained their telephone numbers. The OFTA has not received cases concerning the malpractice of selling personal data.

Since the full commencement of the UEMO, the OFTA has not received any complaints about telephone fraud from the public. Upon receiving complaints on telephone fraud or nuisance, the OFTA would advise complainants to report such cases to the police.

The Privacy Commissioner for Personal Data (PCPD) has received 87 complaints about direct marketing in 2007 and 54 such complaints this year up to 12 November. The PCPD does not maintain separate statistics on complaints about telemarketing and nuisance calls, or on cases where the complainants questioned the sources from which the marketers obtained their information. Besides, the PCPD does not investigate into complaints involving fraud, and would instead advise the complainants to seek assistance from the police in such cases. As such, no statistics are kept on complaints involving fraud.

- (b) The OFTA commissioned a survey in late October 2008 to assess the extent of the problem of person-to-person telemarketing calls and to gauge the views of the public towards such calls. Upon completion of the survey, the Government will consider carefully the findings of the survey and the way forward with a view to striking a balance between the interests of the recipients and the senders of such messages.

¹ The numbers of cases in which calls were made to mobile phones and fixed line telephones were 29 and eight respectively.

Prevention of Childhood Obesity

17. **MR FREDERICK FUNG** (in Chinese): *President, a recent study by The Chinese University of Hong Kong has revealed that the problem of childhood obesity in Hong Kong is getting worse, and it has projected that by 2013, every one of four teenagers aged between six and 18 would be obese. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the efficacy of the measures to encourage children to develop the habits of healthy eating and frequent exercising starting from childhood; if it has, of the assessment results, if not, the reasons for that;*
- (b) *as it is learnt that in view of an increasing number of children suffering from obesity, the Government intends to introduce healthy eating campaigns at the pre-school stage, which are currently implemented in secondary and primary schools, of the details of its thinking, including how the educational institutions concerned should complement;*
- (c) *whether it will consider checking the body mass index for school children on a regular basis and recommend that secondary and primary schools should increase the number of sessions and extend the duration of physical education lessons; and*
- (d) *whether it will implement more effective measures to stop the problem of childhood obesity, including restricting the broadcast of television advertisements of foods that are high in fat, sugar or salt (generally referred to as "junk food") during children's programmes or family viewing time and regulating the contents of such advertisements, so as to reduce children's access to information about such foods, as well as banning the sale of junk food in schools; if it will, of the implementation timetable; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): *President, according to statistics provided by the Student Health Service of the Department of Health (DH), the obesity rate among primary school students rose from 16.4% in*

1997-1998 to 21.3% in 2007-2008. To promote healthy eating habit, the DH has all along been committed to raising public awareness of the importance of healthy eating through various large-scale campaigns such as "EatSmart@school.hk" and "EatSmart@restaurant.hk". It has also launched a "Strategic Framework for Prevention and Control of Non-communicable Diseases" to promote public health and healthy living. My reply to the four parts of the question is as follows:

- (a) The DH launched the "EatSmart@school.hk" in the 2006-2007 academic year to raise public awareness and concern about healthy eating among children, and create an environment that is conducive to healthy eating in schools and the community. In the 2007-2008 academic year, a total of 482 primary schools have participated in the Campaign, accounting for 77% of the total number of primary schools in Hong Kong. The dedicated website for the Campaign records a total of over 35 million hits.

According to the assessment of food consumption patterns of primary students conducted by the DH in early 2008, more than half of the responding students and parents were aware of the Campaign, 73% of the responding students supported the promotion of healthy eating; over 60% of the parents supported the introduction of measures in schools to increase the proportion of healthy lunch and snacks; and more than 70% of the respondents had knowledge about the principles of healthy eating. In addition, the percentage of students and parents who paid more attention to the nutritional value of food when making food choices had significantly increased over that in 2006, and the eating behaviour of school children had also improved. The DH will continue to keep in view the changes of school children's eating habits and the trend of childhood obesity rate, and conduct relevant research to review and improve the strategies and measures for promoting healthy eating.

To help school children develop a healthy and active lifestyle and foster their physical and aesthetic development, the Education Bureau (the Bureau) has recommended that no less than 5% of the lesson time be allocated for physical education in all primary and secondary schools. It has also provided support to schools for developing sports activities through provision of grants for acquiring sports equipment and hiring coaches; collaboration with other

government departments and organizations to encourage schools to use public sports facilities free of charge or at concessionary rates and give them priority in using such facilities; and organizing large-scale sports development programmes, such as the "School Physical Fitness Award Schemes", "School Dance Festival", "Outdoor Education Camps", "Jump Rope for Heart" and inter-school sports competitions.

On the other hand, the Leisure and Cultural Services Department (LCSD) has organized the "School Sports Programme" in collaboration with the Bureau since 2001 to provide information and training on sports to children and youngsters studying at primary, secondary and special schools. In the 2007-2008 academic years, over 1 000 schools and 540 000 students participated in the programme. At the same time, the number of participants for various sports programmes organized by the Bureau, LCSD and other organizations amounted to over 1.1 million in the 2007-2008 academic year. Findings of the health fitness¹ survey on school children conducted regularly by the Bureau also indicate that the levels of physical fitness of school children remain largely stable.

- (b) To improve the population's health profile and reduce the burden of non-communicable diseases (NCD) (including overweight and physical inactivity), the DH launched the "Strategic Framework for Prevention and Control of Non-communicable Diseases" in end October 2008 to call for concerted efforts in the control and prevention of NCD. In October, we also set up the Steering Committee on Prevention and Control of Non-communicable Diseases, comprising representatives from the Government, public and private sectors, academia, professional bodies, relevant industries and other key partners, to deliberate on and oversee the implementation of the overall strategy. The Steering Committee will form a working group to study matters related to healthy eating and physical activity. One of its main duties is to consider conducting studies on childhood obesity so as to collect more scientific data for following-up cases of childhood obesity.

¹ "Health fitness" refers to one's ability to adapt to the environment for maintaining a healthy and quality life. It consists of the components of cardio respiratory endurance, muscular strength, muscular endurance, body composition and flexibility.

As for the introduction of the element of healthy eating to pre-school education, the DH will work with relevant stakeholders to review the needs of the education sector, students and parents before developing the appropriate measures, such as guidelines, publicity, education, trainings, and so on.

- (c) The DH operates 12 student health service centres and three special assessment centres, which provide free health assessment (including regular measurement and monitoring of the height and weight of students), health education and individual health counselling services for primary and secondary students. The main emphasis is on health promotion and disease prevention. Besides, schools measure the height and weight of their students every year.

Regarding the lesson time, according to the Bureau and as mentioned in part (a) of this reply, our students already have many opportunities to participate in sports activities. As such, the Curriculum Development Council has no plan to amend the recommendation of allocating not less than 5% of the lesson time for physical education at the moment.

- (d) Realizing the influence of the mass media on children, the DH has been disseminating information on healthy lifestyle through the mass media and different channels to the public. To tackle childhood obesity, the DH will continue with its publicity and educational efforts and strive to build a favourable environment to encourage children to make healthy food choices and do more exercises. As regards the proposal to regulate food advertisements, the DH has to gather relevant information, draw on the practical experiences of other places, and listen to the opinions of experts and the public.

Temporary Teachers in Government Schools

18. **MR CHEUNG MAN-KWONG** (in Chinese): *President, regarding the appointment of temporary teachers in government schools on short-term contracts, will the Government inform this Council:*

- (a) *of the current number of temporary teachers in each school and its percentage in the total number of teachers in the school, together*

with a breakdown of the total number of such teachers by their grade and total years of service (including their appointments in different government schools);

- (b) of the number of temporary teachers who were offered appointment on permanent terms in each of the past five years; and*
- (c) whether it will expeditiously offer appointment on permanent terms to temporary teachers in order to solve the current problem of different remuneration among teachers performing the same duties and possessing the same qualifications?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) The number of temporary teachers employed in government primary and secondary schools, together with other relevant information, are set out at Annex 1 and Annex 2 respectively.
- (b) According to the Government's established recruitment policy, we will conduct recruitment exercise to appoint staff on civil service terms only when there are long-term vacancies of permanent posts. As surpluses of teaching staff in both government primary and secondary schools have been anticipated in our projection of long-term staffing requirement, no open recruitment of teaching grade staff were conducted in the past five years. All serving temporary teachers are appointed on monthly-paid short-term contract. Those who are interested to apply for a post in the teaching grades in the Education Bureau are required to compete with other applicants in an open recruitment exercise when one is conducted.
- (c) Given the decreasing number of school-age children in the coming years, we have no long-term vacancies of permanent posts in the teaching grades at present. As such, we have no plans in hand to conduct an open recruitment exercise for permanent civil service posts in the teaching grades.

Annex 1

Information on Temporary Teachers^{Note 1} in Government Primary Schools
(2008-2009 school year)

<i>School</i>	<i>Year of service^{Note 2}</i>	<i>Number of temporary teachers^{Note 3}</i>	<i>Total number of teachers in the school</i>	<i>Percentage of temporary teachers</i>
Primary School 1	0-1 yr	4	47	10.6%
	1-2 yr	1		
	Total	5		
Primary School 2	Total	0	40	0.0%
Primary School 3	0-1 yr	2	20	15.0%
	1-2 yr	1		
	Total	3		
Primary School 4	0-1 yr	1	27	3.7%
	Total	1		
Primary School 5	Total	0	45	0.0%
Primary School 6	0-1 yr	6	34	17.6%
	Total	6		
Primary School 7	Total	0	47	0.0%
Primary School 8	0-1 yr	3	38	10.5%
	1-2 yr	1		
	Total	4		
Primary School 9	Total	0	39	0.0%
Primary School 10	0-1 yr	1	48	6.3%
	1-2 yr	2		
	Total	3		
Primary School 11	0-1 yr	2	47	4.3%
	Total	2		
Primary School 12	0-1 yr	4	47	8.5%
	Total	4		
Primary School 13	Total	0	39	0.0%
Primary School 14	0-1 yr	1	38	2.6%
	Total	1		
Primary School 15	0-1 yr	1	17	5.9%
	Total	1		
Primary School 16	0-1 yr	2	21	14.3%
	2-3 yr	1		
	Total	3		
Primary School 17	0-1 yr	1	26	7.7%
	1-2 yr	1		
	Total	2		
Primary School 18	Total	0	34	0.0%
Primary School 19	0-1 yr	3	38	7.9%
	Total	3		

<i>School</i>	<i>Year of service</i> ^{Note 2}	<i>Number of temporary teachers</i> ^{Note 3}	<i>Total number of teachers in the school</i>	<i>Percentage of temporary teachers</i>
Primary School 20	0-1 yr	2	38	5.3%
	Total	2		
Primary School 21	Total	0	35	0.0%
Primary School 22	0-1 yr	4	40	15.0%
	1-2 yr	1		
	3-4 yr	1		
	Total	6		
Primary School 23	0-1 yr	2	20	10.0%
	Total	2		
Primary School 24	1-2 yr	1	47	2.1%
	Total	1		
Primary School 25	Total	0	49	0.0%
Primary School 26	0-1 yr	3	47	6.4%
	Total	3		
Primary School 27	0-1 yr	4	50	10.0%
	1-2 yr	1		
	Total	5		
Primary School 28	Total	0	29	0.0%
Primary School 29	0-1 yr	1	46	2.2%
	Total	1		
Primary School 30	Total	0	12	0.0%
Primary School 31	0-1 yr	2	49	4.1%
	Total	2		
Primary School 32	Total	0	37	0.0%
Primary School 33	0-1 yr	1	35	2.9%
	Total	1		
Primary School 34	0-1 yr	1	51	2.0%
	Total	1		
Primary School 35	Total	0	34	0.0%
Primary School 36	0-1 yr	2	34	5.9%
	Total	2		
Total	0-1 yr	53	1 345	4.8%
	1-2 yr	9		
	2-3 yr	1		
	3-4 yr	1		
	Grand Total	64		

Note 1 It refers to monthly-paid temporary teachers appointed to fill the vacancies within the teaching staff establishment.

Note 2 Year of service counts the period of continuous employment in government schools (including appointments in different government schools).

0-1 yr refers to service of one year or less.

1-2 yr refers to service of more than one year to two years, and so on.

Note 3 All serving temporary teachers in government primary schools are in the grade of Certificated Master/Mistress.

Annex 2

Information on Temporary Teachers^{Note 1} in Government Secondary Schools
(2008-2009 school year)

School	Year of service ^{Note 2}	Number of temporary teachers			Total number of teachers in the school	Percentage of temporary teachers
		Graduate Master/Mistress	Certificated Master/Mistress	Total		
Secondary School 1	0-1 yr	0	1	1	25	8.0%
	1-2 yr	0	1	1		
	Total	0	2	2		
Secondary School 2	0-1 yr	3	0	3	55	7.3%
	1-2 yr	1	0	1		
	Total	4	0	4		
Secondary School 3	0-1 yr	1	0	1	52	7.7%
	1-2 yr	1	0	1		
	2-3 yr	1	0	1		
	4-5 yr	1	0	1		
	Total	4	0	4		
Secondary School 4	0-1 yr	4	2	6	58	15.5%
	1-2 yr	1	0	1		
	3-4 yr	1	0	1		
	4-5 yr	1	0	1		
	Total	7	2	9		
Secondary School 5	1-2 yr	1	0	1	54	1.9%
	Total	1	0	1		
Secondary School 6	0-1 yr	0	1	1	19	10.5%
	1-2 yr	1	0	1		
	Total	1	1	2		
Secondary School 7	0-1 yr	2	0	2	50	4.0%
	Total	2	0	2		
Secondary School 8	0-1 yr	3	0	3	48	10.4%
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	Total	5	0	5		

Note 1 It refers to monthly-paid temporary teachers appointed to fill the vacancies within the teaching staff establishment.

Note 2 Year of service counts the period of continuous employment in government schools (including appointments in different government schools).

0-1 yr refers to service of one year or less.

1-2 yr refers to service of more than one year to two years, and so on.

School	Year of service ^{Note 2}	Number of temporary teachers			Total number of teachers in the school	Percentage of temporary teachers
		Graduate Master/Mistress	Certificated Master/Mistress	Total		
Secondary School 9	0-1 yr	3	2	5	51	13.7%
	1-2 yr	2	0	2		
	Total	5	2	7		
Secondary School 10	0-1 yr	2	1	3	51	13.7%
	1-2 yr	1	0	1		
	2-3 yr	3	0	3		
	Total	6	1	7		
Secondary School 11	0-1 yr	4	3	7	61	19.7%
	1-2 yr	1	0	1		
	2-3 yr	1	0	1		
	3-4 yr	3	0	3		
	Total	9	3	12		
Secondary School 12	0-1 yr	1	0	1	59	8.5%
	1-2 yr	3	0	3		
	2-3 yr	1	0	1		
	Total	5	0	5		
Secondary School 13	0-1 yr	4	0	4	53	20.8%
	1-2 yr	3	0	3		
	2-3 yr	3	0	3		
	3-4 yr	1	0	1		
	Total	11	0	11		
Secondary School 14	0-1 yr	1	0	1	48	4.2%
	1-2 yr	1	0	1		
	Total	2	0	2		
Secondary School 15	0-1 yr	2	1	3	51	7.8%
	1-2 yr	1	0	1		
	Total	3	1	4		
Secondary School 16	0-1 yr	5	2	7	58	19.0%
	1-2 yr	1	0	1		
	2-3 yr	2	0	2		
	4-5 yr	1	0	1		
	Total	9	2	11		
Secondary School 17	0-1 yr	0	1	1	48	12.5%
	1-2 yr	2	0	2		
	2-3 yr	2	0	2		
	4-5 yr	1	0	1		
	Total	5	1	6		

School	Year of service ^{Note 2}	Number of temporary teachers			Total number of teachers in the school	Percentage of temporary teachers
		Graduate Master/Mistress	Certificated Master/Mistress	Total		
Secondary School 18	0-1 yr	3	1	4	60	8.3%
	4-5 yr	1	0	1		
	Total	4	1	5		
Secondary School 19	0-1 yr	2	2	4	52	13.5%
	1-2 yr	2	0	2		
	2-3 yr	1	0	1		
	Total	5	2	7		
Secondary School 20	0-1 yr	2	0	2	52	17.3%
	1-2 yr	3	1	4		
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	5-6 yr	1	0	1		
	Total	8	1	9		
Secondary School 21	0-1 yr	3	0	3	50	12.0%
	1-2 yr	1	0	1		
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	Total	6	0	6		
Secondary School 22	0-1 yr	0	1	1	16	6.3%
	Total	0	1	1		
Secondary School 23	0-1 yr	4	0	4	56	14.3%
	1-2 yr	4	0	4		
	Total	8	0	8		
Secondary School 24	Total	0	0	0	14	0.0%
Secondary School 25	0-1 yr	2	1	3	49	18.4%
	1-2 yr	3	0	3		
	2-3 yr	3	0	3		
	Total	8	1	9		
Secondary School 26	0-1 yr	2	5	7	39	28.2%
	1-2 yr	3	1	4		
	Total	5	6	11		
Secondary School 27	1-2 yr	1	0	1	53	5.7%
	2-3 yr	2	0	2		
	Total	3	0	3		
Secondary School 28	0-1 yr	2	1	3	49	20.4%
	1-2 yr	4	0	4		
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	4-5 yr	1	0	1		
	Total	9	1	10		

School	Year of service ^{Note 2}	Number of temporary teachers			Total number of teachers in the school	Percentage of temporary teachers
		Graduate Master/Mistress	Certificated Master/Mistress	Total		
Secondary School 29	0-1 yr	3	0	3	56	8.9%
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	Total	5	0	5		
Secondary School 30	0-1 yr	3	2	5	55	20.0%
	1-2 yr	3	0	3		
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	4-5 yr	1	0	1		
	Total	9	2	11		
Secondary School 31	0-1 yr	2	1	3	58	8.6%
	1-2 yr	1	0	1		
	4-5 yr	1	0	1		
	Total	4	1	5		
Secondary School 32	0-1 yr	2	1	3	57	15.8%
	1-2 yr	3	1	4		
	2-3 yr	1	0	1		
	3-4 yr	1	0	1		
	Total	7	2	9		
Secondary School 33	0-1 yr	4	2	6	63	19.0%
	1-2 yr	4	0	4		
	4-5 yr	2	0	2		
	Total	10	2	12		
Secondary School 34	0-1 yr	5	1	6	57	14.0%
	1-2 yr	1	0	1		
	2-3 yr	1	0	1		
	Total	7	1	8		
Secondary School 35	0-1 yr	2	1	3	53	11.3%
	1-2 yr	3	0	3		
	Total	5	1	6		
Total	0-1 yr	76	33	109	1 730	12.7%
	1-2 yr	56	4	60		
	2-3 yr	27	0	27		
	3-4 yr	12	0	12		
	4-5 yr	10	0	10		
	5-6 yr	1	0	1		
	Sum	182	37	219		

Assistance to Families Affected by Financial Tsunami

19. **MR CHAN HAK-KAN** (in Chinese): *President, it has been reported that quite a number of families are facing financial difficulties brought about by the financial tsunami. As a result, domestic disputes and even divorce cases have increased significantly in recent months. A non-governmental organization has indicated that the number of phone calls for assistance it received in October had doubled. In this connection, will the Government inform this Council:*

- (a) *of the monthly average number of requests for assistance concerning marriage problems received by the Social Welfare Department (SWD) since September last year, and whether there was a significant increase in the number of such requests in the past two months;*
- (b) *whether SWD has plans to allocate additional resources to reinforce family and child welfare services, including assistance hotline service; if so, of the details; if not, the reasons for that; and*
- (c) *whether, in the light of the above situation, it will adopt various approaches (for example, paying home visits) in order to understand in-depth the circumstances of families seeking assistance, so as to provide suitable assistance for them?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President,

- (a) As the SWD collects data on a quarterly basis, we can only provide statistical information by the quarter.

During the four quarters from October 2007 to September 2008, the 61 Integrated Family Service Centres (IFSCs) over the territory handled, on average, 460 new/reactivated cases on marital problems per month. The average figure for the first three quarters (458 cases per month) is comparable to that for the last quarter (464 cases per month).

- (b) At present, the Administration provides over-the-phone counselling and support services to persons in need, including those with marital

problems, mainly through three 24-hour hotlines, that is, the SWD Hotline (2343 2255), the CEASE Crisis Centre Hotline (18281) operated by the Multi-purpose Crisis Intervention and Support Centre (CEASE Crisis Centre) of the Tung Wah Group of Hospitals and the Caritas Family Crisis Support Centre Hotline (18288) operated by the Family Crisis Support Centre of Caritas — Hong Kong.

As members of the community may have emotional and family problems, and so on, because of the global financial tsunami, the SWD allocated additional subsidy totalling \$1.2 million to the CEASE Crisis Centre and Caritas Family Crisis Support Centre in October this year for them to set up a "Financial Crisis Emotional Support Hotline". The hotline is manned by registered social workers and provides 24-hour counselling service to persons in need.

- (c) At present, the 61 IFSCs across the territory provide a continuum of preventive, supportive and remedial services to persons seeking assistance with a view to helping them tackle their personal and family problems. Social workers will assess their circumstances through face-to-face interviews, home visits, and so on, and provide them with appropriate services according to their needs.

Social workers manning the "Financial Crisis Emotional Support Hotline" also provide face-to-face counselling services to persons seeking assistance and organize support groups for them with a view to strengthening their skills in coping with stress and assisting them in facing their problems in a positive way. Where necessary, social workers will refer their cases to appropriate welfare service units for follow-up.

The SWD will continue to monitor the situation and take appropriate measures to meet service demands.

Blood Donation

20. **MR LAU KONG-WAH** (in Chinese): *President, will the Government inform this Council if it knows the following in the past three years:*

- (a) *the annual numbers of donor centres and mobile vehicles under the Hong Kong Red Cross Blood Transfusion Service (BTS) and the changes in such numbers;*
- (b) *the respective numbers of blood donations and bags of blood collected each year and, among the bags of blood collected, the number of those which were found to contain pathogens or had been contaminated and thus unusable;*
- (c) *the annual blood demand of various medical institutions; and*
- (d) *whether the number of blood donations by the public was declining; if so, of the measures to encourage more people to give blood?*

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

- (a) The numbers of donor centres and mobile vehicles under the BTS and their respective service statistics in the past three years are set out at Annex 1.
- (b) The annual numbers of blood donations (equivalent to the annual number of bags of blood collected) in the territory remained relatively stable over the past three years with increases recorded in 2007. Relevant figures and the numbers of bags of blood collected which were found to contain pathogens or had been contaminated and thus unusable per annum are set out at Annex 2.

As seen from the figures in the Annex, the numbers of bags of blood collected which were found to contain pathogens or had been contaminated and thus unusable were on the decrease in recent years. It is believed to be attributable to the Hepatitis B Vaccination Programme for new-born babies introduced since 1988. The vaccination programme results in a significant decrease in the percentage of young first-time blood donors tested positive for Hepatitis B.

- (c) The numbers of bags of blood required by medical institutions (including hospitals under the Hospital Authority (HA) and private

hospitals) for clinical uses over the past three years are set out at Annex 3.

- (d) Hong Kong is a society full of care and love. Every year, many citizens participate in blood donations actively and regularly. We give our deepest appreciation to those citizens who are enthusiastic in giving blood to save lives. Despite the rise in the overall demand for blood in Hong Kong in recent years, a corresponding increase in donor population ensures adequate blood supply to cope with the demand. Apart from encouraging the public to join blood donations and become regular donors through its existing publicity and recruitment channels, BTS also employs different means to remind the public about the importance of regular blood donation. It also studies the feasibility of setting up additional donor centres in other districts of the territory. Moreover, BTS is always devoted to best utilizing the blood collected. In the past three years, the annual numbers of bags of blood which were not utilized in Hong Kong remained at an extremely low level of about 1% of the total numbers of bags of blood collected. BTS and the HA will continue to monitor closely the supply and utilization of blood in Hong Kong and co-ordinate the service arrangements to ensure that the demand for blood is met.

Annex 1

The numbers and service statistics
of donor centres and mobile vehicles under the BTS in the past three years

<i>Blood collection centre</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>
<i>Fixed donor centre</i>			
Number of donor centre*	6	6	6
Total service-day	2 002	2 023	2 023
<i>Mobile vehicle</i>			
Mobile blood collection team			
Number of team	4	4	4
Total number of visit	999	1 005	971
Mobile vehicle			
Number of mobile vehicle	2	2	2
Total visit-day	95	99	97

* An additional donor centre has been established in 2008.

Annex 2

Numbers of blood donations and bags of blood found to contain pathogens or having been contaminated and thus unusable in the past three years in Hong Kong

<i>Blood Collection Figures</i>	2005	2006	2007
Number of blood donations (that is, the number of bags of blood collected)	197 974	196 332	205 645
Number of bags of blood found to contain pathogens or having been contaminated and thus unusable (that is, blood tested positive for hepatitis B, hepatitis C, AIDS, syphilis or human T-lymphotropic virus)	1 402	1 003	896

Annex 3

Numbers of bags of blood for clinical uses required by medical institutions (including hospitals under HA and private hospitals) in the past three years

<i>For clinical uses (Numbers of bags of blood)</i>	2005	2006	2007	2008 (up to October)
Red blood cell	180 224	180 752	191 164	162 959
Other blood products (for example, platelet, plasma, and so on)	286 238	294 813	314 419	268 370
Total	464 462	475 565	505 583	431 329

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Interpretation and General Clauses Ordinance to amend the Harmful Substances in Food (Amendment) Regulation 2008.

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

PROPOSED RESOLUTION UNDER THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the Resolution under my name be passed to amend the Harmful Substances in Food (Amendment) Regulation 2008 (Amendment Regulation) to include definitions for the terms "milk" and "milk beverage" in the Harmful Substances in Food Regulations (Cap. 132AF). The details have been set out in the Agenda circulated to Members.

The Harmful Substances in Food Regulations (Cap. 132AF) govern, among other things, the presence of harmful substances in food imported to and sold in Hong Kong. To ensure food safety and protect public health, since the detection of melamine in dairy products, the Government has proceeded immediately to make the Amendment Regulation for the purpose of amending Cap. 132AF to prohibit inappropriate level of melamine in food.

The Harmful Substances in Food (Amendment) Regulation 2008 was gazetted on 23 September 2008 and came into effect on the same day. The Amendment Regulation was tabled at the Legislative Council on 8 October 2008.

The standard set for melamine in food intended to be consumed principally by children under the age of 36 months, pregnant and lactating women is a maximum concentration of 1 mg/kg of the food (1 ppm). The standard for any other food is 2.5 mg/kg of the food (2.5 ppm).

In relation to milk, it has always been our policy intention that all liquid milk and milk beverage should comply with the 1 mg/kg requirement. This includes liquid milk in bottles, paper-boxes and plastic-boxes, and so on, which are commonly available in the market. It also includes those products which are made from milk solids (such as, high-cal low-fat milk) and milk with other ingredients, like flavourings added (such as, chocolate-flavoured milk). All these liquid milk products should comply with the 1 mg/kg requirement.

At the briefing session to introduce the requirements on melamine to the trade, we have clearly explained the coverage of the Regulation, in particular the legal limit of melamine in milk and milk beverage, which is set at 1 mg/kg of the food.

To ensure that the public and the trade would have a clear understanding of the requirements in the legislation and to facilitate compliance by the trade, we propose to amend the Harmful Substances in Food Regulations to include definitions for "milk" and "milk beverage", to ensure that "milk" covers all "milk beverage". The new definitions would apply to all harmful substances listed in Cap. 132AF.

The Legislative Council Subcommittee on the Amendment Regulation has no objection to the amendments. I hope Members would give their support to the Resolution.

Thank you, President.

The Secretary for Food and Health moved the following motion:

"RESOLVED that the Harmful Substances in Food (Amendment) Regulation 2008, published in the Gazette as Legal Notice No. 215 of 2008 and laid on the table of the Legislative Council on 8 October 2008, be amended by adding –

"2. Interpretation

Regulation 2 is amended by adding –

""milk" (奶類) means cows milk, buffaloes milk and goats milk, and includes cream, separated milk and milk beverage, but does not include dried milk, condensed milk or reconstituted milk;

"milk beverage" (奶類飲品) means any beverage resulting from combining liquid milk fat with other solids derived from milk, whether exclusive of any food additive or otherwise;".".

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.

MR FRED LI (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Harmful Substances in Food (Amendment) Regulation 2008 (the Amendment Regulation), I would like to report on the major deliberations of the Subcommittee.

The Amendment Regulation seeks to amend the Harmful Substances in Food Regulations (Cap. 132AF) to set the maximum concentration of melamine in milk and other food to protect public health.

Some Members have considered that the Administration should adopt a "zero tolerance" standard for melamine in milk and other food.

The Administration has explained that the standards are set with reference to the requirements of the United States Food and Drug Administration, and are in line with the standards promulgated by most places that have set standards for melamine in food, such as Canada and New Zealand. The Centre for Food Safety of the Food and Environmental Hygiene Department will closely monitor international developments in the setting of standards for melamine in food and review the current melamine standards accordingly.

Some Members have pointed out that it is not realistic to expect everyone in the food chain can ensure that the food they supply for human consumption do not contain melamine exceeding the legal requirements under the Amendment Regulation.

The Administration has advised that defence for persons charged with committing an offence under Cap. 132AF is provided under section 71 of the Public Health and Municipal Services Ordinance (Cap. 132). It shall be a defence for the defendant to prove that he purchased the food as being an article which could be lawfully sold and with a written warranty to that effect.

The Subcommittee supports the Amendment Regulation and support the inclusion of definitions for "milk" and "milk beverage" in the Amendment Regulation to reflect more clearly in the legislation the policy intent of the Administration to facilitate compliance by the trade.

President, below is my view on the Amendment Regulation. I guess I will not take much time.

I believe the Secretary should be aware that the public is still concerned whether comprehensive inspection has been carried out for milk and milk products imported from the Mainland into Hong Kong, and whether their hygiene standards are ensured to be in line with the standards for melamine in the Amendment Regulation. Furthermore, I think the Government should reflect to the mainland authorities the relatively late notification of the melamine problems. It is reported that the Mainland — at least the "Sanlu" milk products company — started adding melamine to milk products three years ago. This explains why so many by-products, including Lotte Koala biscuit, yoghurt, and cakes have been manufactured. Today, even eggs are found to be problematic. I hope the Government can, apart from amending the legislation, continue to monitor the import of melamine into Hong Kong to ensure that we will not be plagued by this problem anymore.

I so submit.

MR VINCENT FANG (in Cantonese): President, actually, I am not entirely keen to support the passage of the Harmful Substances in Food (Amendment) Regulation 2008 (the Amendment Regulation) today not because the trade or I am willing to allow such harmful substances as melamine to jeopardize the health of human beings. It is rather because the Government allows other countries or regions to perform the gate-keeping role in food safety on its behalf and, once problems arise, enact extremely stringent regulatory legislation before it has gained a thorough understanding of the situation, thereby leading to a situation in which it will overkill such that there will not be even room for respite because of over-regulation. This is what happened when malachite green was detected in freshwater fish in 2005. Today, melamine is regulated in the same manner.

Regarding the detection of melamine in food, I immediately approached the trade, including milk manufacturers, to gain an understanding of the situation when melamine was detected in food in September. I was told by food manufacturers in their response that they would not wish to add melamine to food. It is simply abnormal for the Sanlu Group to add melamine to infant formula. However, melamine is one of the pollutants in the environment of human beings. Basically, only food grown in greenhouses or genetically modified food can avoid being polluted. Conventional food grown in the natural environment will inevitably be slightly polluted because melamine can be found in pesticides and thus easily leave residues in soil and crops. This explains why

traces of melamine have recently been found in many crops, such as maize, carrots, potatoes, and so on, one after another.

However, when our Government saw droves of parents bring their children to hospitals to receive check-ups for kidney stone when Sanlu milk formula had been found to be problematic, it proceeded immediately, owing to public pressure, to urgently enact legislation on regulation of melamine. This originally leaves no cause for complaint for the Bureau is duty-bound to safeguard the Government's reputation and public health. However, before setting the standard at 1 mg/kg for milk and 2.5 mg/kg for other food, did the Government consult experts in various sectors? I know that the Secretary will definitely proudly say in his reply that after Hong Kong has set this standard, some countries, such as Australia, have amended their restrictions on the concentration of melamine with reference to Hong Kong's standard. However, it must be borne in mind that these countries themselves are major food producers. To a certain extent, they discriminate against food imported from China.

If the Government can have a more thorough understanding of the penetration of melamine during the enactment of legislation, we will not suffer from a severe shortage of eggs today, which has affected the daily lives of the public.

At a different level, it is evident from the emergence of a severe shortage of eggs that the Hong Kong Government has passed onto the mainland authorities the responsibility of assuring food safety. However, inadequate communication between the Mainland and us has given rise to conflicts in which food considered to have passed inspections on the Mainland fails in inspections conducted in Hong Kong. As a result, supply and demand is impeded.

Currently, the legislation on food recall is being scrutinized by this Council, and it is mentioned therein that food found to be suspicious must be removed from the shelf and recalled. However, both the trade and I were greatly worried when we saw the problem concerning the concentration of melamine in eggs because, despite the certificates issued by the Mainland for passing inspections, food products could still be required to be removed from the shelf because of the different standards or methods of inspection adopted in Hong Kong. At present, food supplied to Hong Kong from the Mainland accounts for 70% to 80% of food available in the local markets, with fresh food representing up to 90%. Should the situation remain unchanged, how many food importers or wholesalers will dare to stay in the trade when legislation on food safety is enacted?

Therefore, I would like to take this opportunity today to point out that it is unfair to both the mainland authorities and law-abiding operators for the Government to hand over its food inspection and quarantine responsibility to the Mainland, whereas food is allowed to be imported freely into Hong Kong and random inspections are conducted here in the market. We can see itinerant couriers bring boxes of eggs not yet quarantined into Hong Kong for sale. Not only does the Government show no concern, it has even resorted to random inspections in the market. Who will suffer when food not meeting the standard is detected? Actually, not only are law-abiding operators affected, members of the public are also victimized.

Although our trade supports this Amendment Regulation today, we sincerely hope that the Government can, before enacting full-scale legislation on food safety, lay down a comprehensive set of standards on food inspection and quarantine and maintain adequate communication and co-operation with our major food suppliers, especially China. More importantly, a sound set of methods for support and management must be formulated for the entry of food into Hong Kong markets through different channels to prevent the influx of substandard food into our retail market, which will affect the normal operation of the market.

Lastly, we support the Government's regulation of food in a reasonable manner. Therefore, we support this Amendment Regulation today. I so submit. Thank you, President.

MR WONG KWOK-HING (in Cantonese): President, I speak in support of this resolution tabled by the Government for passage by Members. I hope the Government can learn lessons from the melamine incident in several aspects. The incident, which has been lingering on for quite some time, has caused considerable misgivings among the public about the presence of melamine in various kinds of food, from milk to various kinds of milk products, and even such daily food as bread, biscuits, eggs, and so on. I hope the Government can seriously consider what improvements can be made inferring from the several lessons learned from the incident.

First, the HKSAR Government should be more forward-looking in addressing food and food safety issues. It must not wait until there is wide coverage of problems occurred and the relevant food has been recalled in the Mainland or elsewhere before taking action, as this would give the public a very

bad impression of being slow and unresponsive. As Hong Kong is not a producer of food or food products, over 90% of our food and food products are imported. Under such circumstances, it is even all the more necessary for the HKSAR Government to have foresight in monitoring food safety rather than make remedy after the occurrence of incidents. While melamine is detected on the radar network this time around, what will come next? Therefore, the Government's radar network for monitoring must be forward-looking.

Second, I hope the HKSAR Government can maintain close communication with food-exporting countries and places. In particular, it must maintain close intelligence exchanges with the Mainland, as Hong Kong relies primarily on the Mainland for food and food products. Given the extensive production links and vastness of the Mainland, I think the HKSAR Government can yield twice the result with half the effort in monitoring if it can closely complement the Mainland's efforts and strengthen intelligence exchanges with the Mainland. This is the second lesson to be learnt.

Third, I hope the Government can sum up the manpower for collecting food and food product samples for testing. If it is found that there is inadequate manpower and samples, the Government should apply to the Legislative Council for funding because the public relies on the Government in gatekeeping insofar as food safety is concerned. And if the Government considers that resources are not enough on the premise of safeguarding public safety, it should make such funding applications to the Legislative Council at once, so that it can have adequate manpower and resources for testing to support its monitoring work. If testing is conducted only after a certain article is found to be problematic, what about others? Therefore, I hope the Government can learn from this third lesson.

Fourth, I hope the Government can consider establishing a mechanism to allow participation by representatives of the public. I recall that, during the era of the two Municipal Councils, a health committee was set up by the Government to monitor food safety and hygiene. As the chairmen and vice-chairmen of the two Municipal Councils at that time would join the committee, there would be representatives of the two Municipal Councils, doctors (representatives of the medical profession) and government representatives on the committee to jointly monitor food safety. Furthermore, forward-looking studies could be carried out on food safety because a meeting system was then in place at that time. Hence, it was easier for the Government to gain public support in implementing policies and addressing food crises as well as collecting opinions at the assembly level.

However, the system is no longer in place owing to the dissolution of the two Municipal Councils. As for the Legislative Council, a mechanism for carrying out timely studies and discussions is not in place in either the Panel on Health Services or the Panel on Food Safety and Environmental Hygiene. Therefore, the Government can only work on its own, and there is no mechanism to bring in involvement of representatives of public opinion. This is indeed a shortcoming. I very much hope that the Government can consider what it can do to rectify this shortcoming.

Lastly, the Government has already tabled the legislation on food recall to the Legislative Council, and we are in the process of discussing it. I very much hope the relevant bill can be expeditiously scrutinized for implementation. I believe the food recall legislation, upon implementation, can enhance the Government's efficiency in strengthening protection of public safety.

With these remarks, I support the resolution proposed by the Government today.

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

MR WONG YUNG-KAN (in Cantonese): President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the Harmful Substances in Food (Amendment) Regulation 2008 (the Amendment Regulation). Intense nervousness is felt in the Mainland as well as Hong Kong in the wake of the detection of melamine. Members of the public are extremely concerned because they are not clear about many things. However, I believe the public would have a better understanding of their right to know after the enactment of the legislation.

Moreover, as pointed out by Mr WONG Kwok-hing earlier in the meeting, over 90% of the food currently available in the territory comes from the Mainland and other countries. In discussing this amendment legislation, I already expressed disapproval of the Government's tolerance of the standards of 1 mg or 2.5 mg. Abnormalities are bound to occur if there are chances for residues of harmful substances to remain in food. Hence, I hope the Government can perform its gate-keeping role properly with the importation of food by strengthening sample testing and quarantine of food, even if the food contains only 1 mg or 2.5 mg of harmful substances.

The detection of melamine has also caused numerous problems to egg products. At one point, the supply of eggs was tense. For this reason, the Mainland is anxious to work out solutions to properly accomplish this task.

I hope HKSAR government officials responsible for this area can enhance their communication with the mainland networks and study ways to properly perform their gate-keeping roles with respect to food safety. Insofar as food safety is concerned, although the Government has often stressed that the matter must be tackled at source, it might be difficult for the Government to deploy a large number of officials to the Mainland because of a shortage of manpower. However, I believe the mainland authorities will complement the HKSAR Government in performing its gate-keeping role.

It is the view of various parties, including the Premier of the State, that this problem must be taken seriously. Some enterprises or principal officials have even taken the blame to themselves and resigned or stepped down as a result of the incident. I think this incident has already aroused the attention of the international community and the HKSAR. We also hope the Government can pay special attention to this respect.

Given the extensive sources of food, I hope the Government can inform the public clearly of the number of sample tests conducted every day. After the enactment of the legislation, the Government would be conferred with the power. It should then exercise the power to properly perform its role in ensuring food safety for the public.

With these remarks, President, I support the resolution.

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 Food and Health to reply. This debate will come to a close after the Secretary for Food and Health has replied.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I would like to thank Members for their support of this motion and their speeches.

Although many issues outside the scope of this motion have been raised by Members, we have already given clarifications and replies on many occasions at the meetings held by panels or subcommittee. Therefore, I will not repeat them here. However, I must remind Members that food safety in Hong Kong is a very important area of work. We maintain close communication with the Mainland through a 24-hour hotline almost seven days a week. If the State General Administration of Quality Supervision, Inspection and Quarantine or relevant health departments are informed of any crisis relating to food, they will definitely notify us expeditiously. Therefore, we will also expeditiously respond and take action accordingly. It can be seen from this melamine incident that our departments have responded effectively within a very short period of time, and the legislation has been effectively amended to prevent the flow of these harmful substances into the territory. Here I would like to once again thank Members of the subcommittee for their efforts in this respect and their support. I also hope Members can support this motion.

Thank you, President.

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)

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.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House

Committee: that is, the movers of these motions each may speak, including reply, up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak up to 10 minutes; and the mover of amendment to an amendment and other Members each may speak up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): First motion: Formulating a roadmap for a low carbon economy.

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

I now call upon Ms Audrey EU to speak and move her motion.

FORMULATING A ROADMAP FOR A LOW CARBON ECONOMY

MS AUDREY EU (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

The recent focus of society has fallen on such issues as layoffs, unemployment rates and economic recession. When the host of the talk show attended by me last evening learnt that I was going to talk about a low carbon economy and green issues today, he described me as "going against the tide", saying no one would be interested in discussing green issues given the prevailing economic downturn. I told him that he was mistaken, and his remarks reflected precisely a misunderstanding among many people.

President, actually today's motion is perfectly fit for the modern era, because not only is the whole world moving along this road, this is also an important topic in resolving economic difficulties.

First of all, I would like to talk about what it means by low carbon. Many people would ask this question: What is low carbon? President, carbon refers to carbon dioxide (CO₂). Actually, many people should have heard about global warming. It is mainly attributed to greenhouse gas emissions, predominately emission of CO₂.

Let us take a look at the atmosphere. Emissions of greenhouse gases, particularly CO₂, have reached a record high in 650 000 years. As a result, the temperature of the earth had risen 0.74°C in the previous century, with the sharpest rise recorded during the period from the 1970s to present.

President, this book in my hand was written by the British Government to China. It is about how a low carbon economy can bring about economic opportunities, particularly how certain commercial conduct can achieve a low carbon economy by various means and bring more economic benefits to the stakeholders of private and public businesses in Britain as well as China. We can also find in the book an elaborate picture of the world's first city of sustainable development, which was designed by a world-class design and consultancy firm for Dongtan, Shanghai.

During our earlier discussion on West Kowloon, we raised a question concerning whether the district could be developed into a zone of sustainable development and achieve the target of zero or reduced emission of CO₂. President, anything recommended by the British Government is often attributed to the prospect of business opportunities. This is why we can see that environmental finance is also referred to as a golden egg. For those who do not speculate on those complex financial products relating to Lehman Brothers, they may consider how transactions are conducted in environmental finance and how it brings about economic opportunities.

Today, President, I would like to talk about the Global Green New Deal. This was not invented by me; a report called Global Green New Deal was published by the United Nations in October. The report encourages various nations to reduce or stop injecting resources into highly-polluting industries and developments, and inject capital into renewable energy and improving the quality of the environment. This is considered to be a good solution to bring various nations out of their economic crises because, on the one hand, greenhouse gas emissions can thus be reduced and, on the other, nations can thus face economic challenges.

The leaders of a number of nations have recently indicated their commitment to launch multi-billion dollar bailout plans. So, where should these funds be injected? President, all these nations are considering to inject funds into energy-saving and green industries. This is why I say that Hong Kong must discuss a timetable and roadmap for a low carbon economy. On the other hand, President, not only should the Government set a target, the public should also

complement the Government's effort. This is why I am dressed in green today as a green citizen. We must be compatible with the low carbon way of living of the new era.

Three weeks ago, Barack OBAMA was elected by the Americans as the next President of the United States. His environmentally-friendly policies were also related to the green economy. For instance, he proposed investing US\$150 billion in the development of clean energy with the objective of raising the number of hybrid vehicles to 1 million in a bid to rescue the cash-strapped automobile industry in the United States and setting down a target and timetable for the development of renewable energy for the whole nation. By adopting the cap and trade approach, he began by imposing a limit on the total volume of emission. Carbon trading can proceed if the amount is below the limit. This is very important. He even considered that 5 million jobs could thus be created to enable the economy to regain vitality to meet the needs of the environment and society to ultimately achieve a "three-win situation" in sustainable development.

Chief Executive Donald TSANG has also mentioned low carbon economy in his policy address. He said, "We will make early preparations In particular, we will enhance energy efficiency, use clean fuels, rely less on fossil fuel, and promote a low carbon economy — an economy based on low energy consumption and low pollution."

However, the Chief Executive has merely referred to energy efficiency, not a cap or total volume. Furthermore, the policy address has not dwelt with the issue in detail because there is no mention of a low carbon economy or any related initiatives in the remaining chapters of the policy address. Whenever we asked the Government about the work in this respect, it would say that much effort had been made and many initiatives proposed. However, the Government's initiatives are highly fragmented. Most importantly, there is a lack of objectives. One of the highlights of this motion proposed by me today is to point out what it means by low carbon, the objectives, the reduced level of CO₂ emissions, and the timetable for achieving this particular objective. Only with these objectives can we come up with a roadmap and consider what is to be done. During our previous discussions on solid waste, a paper on the strategic framework was published. However, we have no idea of the Government's objectives and details with regard to a low carbon economy.

Despite the fact that targets were set down in last year's policy address, only energy intensity or efficiency, rather than total emissions, was mentioned.

This is very important because, according to the requirements of the Kyoto Protocol, emission reduction can only be achieved by stipulating total emissions. It would be self-deceiving to focus merely on energy intensity because total emissions would increase rather than decrease in tandem with economic growth. In view of the expiry of the Kyoto Protocol in 2012, various nations have already started discussing their interim and long-term targets. Many nations have set their interim emission reduction targets for the period between 2020 and 2030, and their long-term targets for 2050.

For instance, Barack OBAMA's target is to reduce the United States' emission level in 2020 to the 1990 level. Similar targets have also been set by other world-class cities. According to Greenpeace, New York City plans to reduce its emission level in 2030 to 30% less than the 2005 level, London City seeks to reduce its emission level in 2025 to 60% less than the 1990 level, whereas Tokyo City would reduce its emission level in 2020 to 25% less than the 2000 level.

According to some academics in the University of Hong Kong, Hong Kong's emission reduction target must reach 70% to 80%, given that it is already a developed city. Some green groups, such as Greenpeace, are relatively conservative. They consider 15% would be enough. President, this is very important. Though the Civic Party can hardly propose a target today, we must still make it clear that the Government must demonstrate its leadership by proposing targets for us to follow so that all Hong Kong people can move towards the targets.

Incidentally, a report on climate change has to be submitted by Hong Kong to the Central Authorities by 2010 to enable our country to submit national communications to the United Nations. As a consultant must be commissioned to study climate change issues, I hope the Government can expeditiously announce how it will act in addressing or tackling issues relating to climate warming and provide specific targets regarding emissions of CO₂.

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

Meanwhile, I would also like to talk about environmental finance and legislation on climate change because the Government must formulate strategies to address climate change. Regarding the issue of environmental finance mentioned by me just now, there are currently a number of climate trading

markets. During the period from 2005 to 2007, the volume of global carbon trading had risen sharply, from US\$11 billion in 2005 to US\$30 billion in 2006, and US\$64 billion (around HK\$500 billion) in 2007. During the first 10 months of this year, the volume of carbon trading reached HK\$700 billion, with the China market accounting for up to 73%. We can thus understand why the British Government, eyeing the huge potentials of the market in China, head towards China in the low carbon economy.

Actually, such trading places can be found in many places around the world, including Montreal in Canada, Melbourne, the Netherlands, France, Germany, Singapore, and so on. Similar trading places have also been set up in Beijing, Shanghai and Tianjin in China in August this year. It is thus evident that Hong Kong would lag behind should it fail to catch up with others. This is why I raise this question here. Although it is stated in a report compiled by the Hong Kong Exchanges and Clearing Limited that "certified emission reduction futures" transaction services will be launched in the middle of next year, we have yet been informed of the scale of contracts, criteria for calculation and trading hours. I hope complementary efforts can be made by professionals in Hong Kong.

Deputy President, legislation is also vital. Without a framework, targets can hardly be implemented. I do not intend to dwell on this in detail. Actually, legislation relating to climate has been enacted in many places, including Canada and New Zealand. In particular, the Stern Report, recently published in Britain, has made a lot of efforts in this regard. The experience of the efforts made in Europe is also worthy reference.

Deputy President, I have also mentioned grid access in my motion. This is vital to the development of clean energy and emission reduction. Actually, many experts have expressed a lot of opinions on this issue. This is absolutely achievable. Many places around the world have managed to save energy consumption and encourage the development of renewable energy through their power supply systems. In London, the United Kingdom, a low-carbon and decentralized energy supply system is being developed to encourage the public to engage in the development of renewable energy installations. In the United States, Barack OBAMA also proposes the development of Digital Smart Grid and allowing grid connection by the public themselves.

Apart from this, I must also talk about air quality objectives (AQO). Despite years of discussion, we are still at the stage of discussion and study after

more than two decades. It is a great pity that, according to the Government, only interim target I is adopted as the phased target, though the target adopted by the World Health Organization (WHO) has been used. Greenpeace has recently adopted the standard set in interim target I for a comparison of the territory's current situation with reference to the air pollution data of the territory during the period from November 2007 to February 2008 — the worst-polluting winter. If a comparison is made by adopting the WHO interim target I, we will find the target is met for 97.5% of the time. This reflects that the standard is very loose. According to the data provided by Greenpeace, the average annual standard for concentration of suspended particulates should be 70 mcg/m³ according to the lowest phased target, which is looser than Hong Kong's AQO of 55 mcg/m³. Furthermore, according to the Government's proposed standard, there was no excess of sulphur dioxide in the previous winter. However, according to the WHO interim target, the level of sulphur dioxide in Hong Kong had actually failed to meet the standard for half of the time. This is why I find such a loose standard very disappointing.

Deputy President, having said all this, some people might find this target too distant and cast doubts on its usefulness insofar as the current situation is concerned. Actually, it is useful. Deputy President, this is because some of the green projects, green industries, energy-saving initiatives, energy audit, and so on, frequently mentioned by us can all be implemented immediately under the present circumstances.

Deputy President, two colleagues from the Civic Party will continue to analyse this point with us later in the meeting. Thank you, Deputy President.

Ms Audrey EU moved the following motion: (Translation)

"That, as the Chief Executive has proposed in his policy address to build a low carbon economy, i.e. promoting the development of an economy based on low energy consumption and low pollution, yet he has failed to put forward a specific policy framework, strategies, proposed plans, targets and a timetable to set out the specific steps and measures to be taken for achieving a low carbon economy, this Council urges the Government to study the formulation of a timetable and a roadmap for a low carbon economy, including:

- (a) setting interim and long-term targets for the reduction of total greenhouse gas emissions in Hong Kong;

- (b) making reference to overseas examples and studying the formulation of strategies and legislation on climate change;
- (c) providing economic incentives and formulating measures to encourage energy conservation by the public;
- (d) expeditiously drawing up proposed plans for grid access;
- (e) expeditiously formulating standardized arrangements for grid connection and encouraging the use of renewable energy power facilities by various sectors of the community; and
- (f) tightening the current standards of the Air Quality Objectives to expeditiously align them with the World Health Organization Air Quality Guidelines, and formulating an implementation timetable in this regard."

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): Mr KAM Nai-wai and Mr CHAN Hak-kan will move amendments to this motion. Mr CHAN Kam-lam will also move an amendment to Mr KAM Nai-wai's amendment. This Council will now proceed to a joint debate on the motion and the amendments.

I now call upon Mr KAM Nai-wai to speak first, to be followed by Mr CHAN Hak-kan and Mr CHAN Kam-lam, but no amendments are to be moved at this stage.

MR KAM NAI-WAI (in Cantonese): Deputy President, the green issues mentioned by Ms Audrey EU just now have a significant bearing on economic development and promotion of the economy. Actually, green issues also have a significant bearing on our healthy living. Later, I will highlight in my speech the impact of air quality on the health of Hong Kong people. But first of all, I would like to express the views of the Democratic Party on the long-term planning for greenhouse gases.

Actually, the implementation of initiatives for a low carbon economy, such as control of emission of CO₂ from power plants or introduction of legislation to require buildings to conduct the carbon audits, seeks to address the worsening warming problem. I believe the Government fully appreciates the gravity and urgency of the global warming problem. As revealed in a study report recently published by the Observatory, the annual average temperature of Hong Kong is on the rise. Compared to the situation in late last century, the average temperature of Hong Kong is evidently on the rise. For instance, compared with 2004, the temperature at present has risen by 1.3°C. There might probably be no winter in Hong Kong after 2020. Therefore, not only do we face the global warming problem, our next generation might probably face even more serious problems. Unlike other developed economies, Hong Kong has not formulated any long-term plans or specific timetables for reduction of greenhouse gas emissions. The Government is fond of talking about study, study and further study. Actually, in the summit held by eight major industrial nations in Japan in the middle of this year, it was proposed that the emission levels of CO₂ be reduced in 2050 to half of the 1990 benchmark. Despite the coining of the expression "Nylonkong" by *TIME Magazine*, Hong Kong is different from New York in the sense that Hong Kong has failed to pay attention to what it should do to address the global warming problem while pursuing economic growth. Has the Government tried to understand the responsibility of Hong Kong? Have targets for greenhouse gas emissions been formulated? What is Hong Kong's positioning in terms of its strategies for emission reduction across the board? Although more than 10 paragraphs in the recent policy address are related to environmental protection, environmental conservation and air quality improvement, no clear and specific targets and timetable have been set down. On the contrary, the former Mayor of London, Ken LIVINGSTONE, proposed right at the beginning to promote London as a scientific research centre for combating global warming, that is, setting up a scientific research centre in London. Despite the fact that the United States is not a signatory of the Kyoto Protocol, the New York City Government has also set its own target in promoting emission reduction and addressing global warming issues. In achieving emission reduction and addressing warming issues attributed to greenhouse gases, the commitment made by London City and New York City is far higher than that made by Hong Kong.

A panel meeting was held earlier in this Council to discuss the Technical Memorandum to Stipulate the Quantities of Emission Allowances for Power Plants, but we were greatly disappointed at the meeting. Actually, we hoped this

Council could have more time to discuss the Memorandum. However, we were told by the Government that, as time was running out, licences could not be issued to the relevant power plants should we listen to the views of other groups and, as a result, the emission level would be maintained at the original standard. This is unsatisfactory. In the course of formulating the Memorandum, we had also asked why CO₂ could not be included in the Memorandum. We were greatly disappointed in the end. During the formulation of control measures, we were given to know that many greenhouse gases are emitted by these power plants. The Government decided not to regulate the emission of CO₂ on the ground that electricity tariff might increase. However, as pointed out by Ms Audrey EU just now, has the Government considered, as also pointed by me in the amendment, the feasibility of co-operating with Guangdong Province in developing wind farms and ways to promote renewable energy in promoting the use of such energy? Can the Government do more and faster and act in a more forward-looking manner?

Furthermore, I would also like to say a few words on Air Quality Objectives (AQO). In addition to mentioning AQO in the policy address, the Government has also pointed out that Hong Kong is no longer compatible with the global trend and the standards of the WHO and hence a review will be conducted. While this is a start, I would like to tell the Government that I participated in a campaign organized by Greenpeace last week. As pointed out by Ms Audrey EU just now, the Government might make reference to the standard of phase I of the WHO. Should that be the case, many data are likely to meet the standard. However, they can simply not reflect the reality. According to previous studies conducted in the territory, air pollution killed at least 1 600 persons per annum. It has also been pointed out recently by the Hong Kong Thoracic Society that respiratory diseases are the number one killer in Hong Kong, with one in every 3.5 persons being killed by respiratory diseases. Moreover, one in every six hospitalized patients has respiratory diseases. Respiratory diseases have become the major cause of Hong Kong people being hospitalized.

Hence, it is actually very important to study ways to improve air quality. The Government has been reluctant to amend the standard of AQO despite a long delay. I guess it is because the Government is worried that the standards, if tightened, would be exceeded frequently. Should that happen, the Government would lose face. What can be done if the standards are exceeded frequently or

every day? How can we explain to our nation and countries around the world? I think it is irresponsible of us not to face the reality and bury our heads in the sand instead. The Government should be frank and sincere in making these AQO, which are no longer compatible with the global trend, meet the standards expeditiously by all means. This explains why I propose in the amendment to formulate a timetable for AQO to raise them to the standards adopted by the European Union by 2012 and the ultimate standards prescribed by the WHO by 2015. Instead of constantly stressing the need for study, study and further study, like what the Government has done, I have already made a clear and specific request for a specific date and timetable.

Regarding the proposal of establishing low emission zones, which was put forward by the Democratic Party a long time ago, I hope the Government will not shirk its responsibility with the excuse of "study, study and further study". I hope the first stage of the proposal can be implemented in 2010 by establishing low emission zones in densely populated areas such as Central, Causeway Bay, Wan Chai, and so on. I also hope the Government can consider the specific proposals put forward by us in the amendment today. As for the other proposals, Honourable colleagues from the Democratic Party will put forth some proposals and views later in the meeting.

I so submit. Thank you, Deputy President.

MR CHAN HAK-KAN (in Cantonese): Deputy President, recently, we can often watch a television programme on the impact of global warming on the ecology of the Arctic Circle. We would often find our heart pounding whenever we saw scenes of glaciers melting and icebergs collapsing.

I met Miss Rebecca LEE, a polar adventurer, recently during an environmental protection event. She said that she had able to reach places of higher latitude and farther north by ship during a recent visit to the North Pole. In other words, it was now much easier for her to reach the North Pole because there was severe melting of glaciers. We were also told that she had often seen some solitary, thin and weak polar bears during the trip. However, these polar bears were not afraid of people. They approached the adventurers just to sniff at their travel bags in search of food. It was found that these polar bears, which were completely exhausted, had travelled on floating ice to faraway places because they had not been able to find any food. Miss LEE believed these polar

bears would soon starve to death because it was simply impossible for the beasts to find other food.

After listening to this story, I believe every one of us would feel that global warming is no longer an academic expression we find in textbooks. Instead, global warming is going to affect our lives and our environment every day. I wonder if Members still recall the Observatory issuing cold weather warnings for 600 consecutive hours between January and February this year. At the same time, 10 very hot weather warnings, a record high in five years, have also been issued this year. The United Nation's Intergovernmental Panel on Climate Change has even warned that climate change would lead to such knock-on effect as rising water levels, shortage of freshwater resources and intensified outbreaks of infectious diseases.

In our opinion, Deputy President, the development of a low carbon economy should aim at creating economic wealth while taking account of environmental protection. Modes of operation involving substantial energy consumption, like those adopted during the Industrial Revolution, must not be used. Instead, a multi-pronged approach should be adopted to reduce emissions of greenhouse gases, particularly CO₂, by the community at large.

As Members are aware, massive emission of CO₂ is the major cause of global warming. The total emission of CO₂ in Hong Kong over the past decade, however, ran counter to the world's general trend. During the period from 1995 to 2006, there was a 10% increase. This illustrates that Hong Kong seems to lag behind other major cities in the world in tackling climate change. It is thus imperative for the Hong Kong Government to seize every minute to formulate effective policies to promptly reduce greenhouse gas emissions.

In order to promote all Hong Kong people to make joint efforts in reducing emissions, a very clear target and specific timetable are vital. In this year's policy address, the Chief Executive committed to, on the baseline figure of the year 2005, reducing energy intensity with the objective of achieving a 25% reduction by 2030. On the surface, the Chief Executive seems to be full of confidence. However, we understand the so-called energy intensity actually refers to energy consumed by each unit of Gross Domestic Product (GDP). In other words, as pointed out by some colleagues, energy intensity represents energy efficiency rather than emissions reduced. There is a great difference between the two.

It is also noteworthy that, as the kind of energy used and the cleanliness of such energy will not be taken into account in calculating energy intensity, even the Government can hardly estimate the actual amount of reduced greenhouse gases emitted in the territory, even if all the commitments made in the policy address are fulfilled. It would be difficult to promote reduction of greenhouse gas emission should such ambiguous targets continue to be adopted.

The original motion proposed by Ms Audrey EU is largely supported by the DAB. However, we believe more specific and targeted emission reduction initiatives should be proposed. At present, the territory's largest single source of greenhouse gases is thermal power facilities, with 60% of the emissions coming from the two power companies. Therefore, the most direct way to reduce emissions is to regulate the emission levels of the two power companies.

Actually, the DAB has in the past requested the Government to bring CO₂ into its scope of regulation in reviewing the profit control schemes and amending the Air Pollution Control Ordinance. We do understand that the two power companies might need to inject more resources or make additional investment should CO₂ emission be curtailed. However, we consider that these greenhouse gases will be emitted without control so long as a cap is not imposed. At the same time, there would be no increased incentives for the two power companies to use more natural gas and renewable energy to generate electricity. In the end, the two power companies would have to continue to rely on fossil fuel, such that all Hong Kong people would have to bear the price of climate change.

The DAB considers that it will not necessarily be counterproductive so long as the Government can make proper adjustments under the framework of the profit control schemes and properly perform its gate-keeping role in approving tariff increases for the purpose of regulating CO₂ emissions. Furthermore, after CO₂ emissions are brought into the regulatory ambit, more incentives will be provided to encourage the two power companies to join the carbon trading mechanism. This would, on the one hand, achieve emission reduction by a more cost-effective means and, on the other, develop the local carbon emission trading market and create more business opportunities, thereby achieving a win-win situation in environmental protection and economic development. In this respect, Members from the DAB will provide additional information later.

Reducing greenhouse gas emissions is not only the responsibility of the two power companies, members of the public should also join in. In my

amendment, I express my hope, in one of my proposals, for the Government to discuss with the two power companies the inclusion of carbon emissions of users in their electricity bills.

Deputy President, if I ask you what the daily electricity consumption of the Legislative Council is, you may be able to give me the answer. However, if I ask you what the daily emission of CO₂ of this Council is, I believe Members, and even the Secretary General, here might not be able to give an answer. However, if such data is provided in electricity bills in the future, we will be able to see, in specific terms, our monthly electricity consumption as well as the level of CO₂ or greenhouse gases emitted. This is a civic education exercise. Apart from enabling the public to see for themselves the result of energy saving, they can also take part in monitoring the emissions of the two power companies. Actually, the two power companies will publish data on their carbon emissions on an annual basis. The DAB is only taking one more step in putting forward this proposal. It is a simple and direct step. I hope the Government can accord priority to this item.

We are aware that the Government has completed the first phase of legislation for the Mandatory Energy Efficiency Labelling Scheme and taken on board the DAB's recommendations by making preparations for mandatory compliance with the Building Energy Codes by newly completed buildings. The DAB considers that the Government should, in future, intensify its work on promoting energy efficiency by bringing more electrical products into the regulatory ambit. In some European countries, for instance, electrical products not meeting the minimum energy efficiency standards will be barred from sale. The DAB considers that we can make reference to these examples.

Let me cite another example. A "carbon bonus point scheme", similar to the bonus point schemes implemented in supermarkets, has recently been launched in one of our neighbours, South Korea. South Koreans can accumulate some so-called carbon bonus points after buying certain energy-saving products. The points accumulated can then be used for paying government charges or redeeming discounts. These methods can be used to encourage people to switch to energy-saving products.

Deputy President, in addition to electricity consumption, transport is also a very important factor, as transport is the second major source of greenhouse gas

emissions in Hong Kong. Encouraging members of the public to switch to environmentally-friendly vehicles is already a must for all developed cities.

However, we can see from the figures provided by the Government that, as of May this year, only 5 000 vehicles, including less than 50 commercial vehicles, had benefited from the policy of waiving the motor vehicle first registration tax. The main reason is that the prices of environmentally-friendly vehicles are relatively high. The Government must provide an even greater incentive in order to induce vehicle owners to switch to environmentally-friendly vehicles.

Deputy President, I so submit.

MR CHAN KAM-LAM (in Cantonese): Deputy President, while we are here today discussing global warming and saving the environment, Hong Kong is actually hard hit by the financial tsunami and our economy has entered the ice age. People are thinking of ways to save the economy, which illustrates that we all care more about economic development than environmental protection.

Some people say that environmental protection probably has nothing to do with the economy, and they may even be conflicting. And yet, many economic analysts have pointed out that the green industry is, among others, an industry guiding future global development. Major international financial centres are also hastening to chase after this "green golden egg", and the carbon trading market is said to be one of the most rapidly developing markets in recent years.

Regarding the global trading volume of carbon credits, it was 710 million tonnes of carbon dioxide (CO₂) at US\$11 billion in 2005, 1.6 billion tonnes at US\$30 billion in 2006 and then 2.7 billion tonnes at US\$60 billion in 2007. According to the statistics collected under the Clean Development Mechanism of the United Nations, China, India and Brazil are the top three among the participating countries and a total of 771 clean energy projects had been approved by the United Nations. The number of tradable CO₂ permits issued reached as high as 140 million tonnes, of which China accounts for 30%.

Based on these figures, it can be envisaged that carbon trading will become an enormous market in this region and even in the world. The Stock Exchange of Hong Kong Limited planned to establish a carbon trading platform next year, which is obviously a move to dip its fingers in the carbon market.

However, considering the carbon trading platform and the development of the industry from a macro perspective, in order for Hong Kong to develop on par with the Chicago Climate Exchange, which has become a regional trading centre, the DAB considers it necessary for the Government and the industry to resolve the following problems.

Firstly, very few people in Hong Kong can understand and are engaging in carbon credits trading at present. Most people, even environmentalists and financial professionals, have merely heard of the term "carbon trading" without knowing what exactly the operational rules are or how the carbon credits are generated, let alone participating in or gaining profits from carbon trading. This is not conducive to achieving economies of scale in the market, and it is conducive to achieving efficiency for different trading platforms and investments. For this reason, the Government and the industry should introduce carbon credits in a systematic way, and through such way as the organization of seminars to actively introduce them to the investors, so that the majority of them can participate in it and therefore achieve economies of scale.

Secondly, the successful development of carbon credits for a project requires professionals from different disciplines, such as experts of environmental protection technology, consultants, as well as the co-operation between the designated operational entities and trading companies. However, Hong Kong is still seriously lacking in this kind of expertise and companies, operational entities in particular. This is a critical link in the development of carbon credits. Organizations approving, assessing and certifying the products must be authorized by the local governments and the United Nations, and they must meet the stringent requirements in terms of professionalism, goodwill and financial situation. The establishment of this kind of organizations would undeniably require government support. Resource input by the industry is also necessary to proactively train up the staff. At present, the approval and vetting of emission reduction projects is seriously lagging behind, and one of the reasons is that the lists of consultants and operational entities are seriously lacking. For this reason, there is indeed plenty of room for development. Tapping the advantages of our professional services, the availability of international information and our relations with the international community, we would be able to emerge as the nation's hub of emission trading should we proceed on the double.

Thirdly, the development and trading of carbon credits, especially the approval and vetting of such projects, involve recognition at both the local and international perspectives. Furthermore, according to the agreement between the Central Authorities and the SAR Government, all Hong Kong projects must be approved by the Chinese authorities concerned for submission to the United Nations under the name of China, which will then be certified before carbon permits are issued. What is more, the National Development and Reform Commission has enacted a number of laws concerning the development and trading of carbon credits for the management of carbon projects in the Mainland, which are nonetheless not applicable in Hong Kong. These laws may hinder the development and trading of carbon credits in Hong Kong. Amendments might be necessary in the light of the actual situation of Hong Kong, so that the development of carbon projects can be encouraged in Hong Kong. Therefore, the SAR Government needs to step up liaison with the relevant mainland authorities, and requests the specified authorities of different countries to speed up the approval and vetting of Hong Kong projects with the help of the Central Government.

Fourthly, the Government needs to co-ordinate the relevant government departments, research and development units, advisory bodies and commercial companies, and publicly announce, on an annual basis, the required unit of carbon emission reduction within a prescribed time limit. The Government may also provide tax concessions for members of the public and business organizations to encourage them to voluntarily reduce emissions. This is because insofar as carbon trading is concerned, Hong Kong is now under China and is therefore a developing country, so we enjoy the preferential treatment of selling carbon credits to the developed countries. As a result, Hong Kong's emission reduction enterprises enjoy a pretty advantageous position, which enables them to improve the environment of Hong Kong and develop its economy.

Deputy President, I so submit.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Deputy President and Honourable Members, first, I thank Ms Audrey EU for moving the motion "Formulating a roadmap for a low carbon economy" and Mr KAM Nai-wai, Mr CHAN Hak-kan and Mr CHAN Kam-lam for proposing their respective amendments.

I am pleased to note that the Legislative Council has adopted the proposal in the policy address to promote the development of an economy based on low energy consumption and low pollution as the subject of today's debate. I welcome this.

I also agree in particular with Ms Audrey EU's comment that in times of economy gloom, be it the Government, the Legislative Council or the public, they should be all the more concerned about this topic because not only is it relevant to the environment, it is also relevant to the overall development of the economy.

To reduce emissions, save energy and promote a low carbon economy to meet the challenges of climate change is a very important policy agenda in the policy addresses of the SAR Government both in this year and last year. In last year's policy address, the Chief Executive proposed in particular making improvements to the environment and the development of a quality city and quality life. He pledged therein that active measures would be taken to reduce the emissions of greenhouse gases and a goal applicable to Hong Kong would be set. The energy intensity will be reduced by 25% by 2030, using 2005 as the base year. This is also in line with the pledge we made as a member of the Asia-Pacific Economic Co-operation.

In the past year, we introduced a series of measures, including the consultation on mandatory compliance with the Building Energy Codes. This has paved the way for the legislative exercise we plan to launch this year. After scrutiny by the committee concerned for more than a dozen times — if my tally is correct — the bill for implementing the first phase of the mandatory Energy Efficiency Labelling Scheme for household electrical appliances was finally drafted to enable us to bring more electrical appliances under the coverage of this labelling scheme. We have also launched a campaign on carbon audit and energy audit in Hong Kong as pledged and have succeeded in inviting over 40 enterprises and organizations to begin to carry out carbon audit on more than 100 buildings. We hope that through the measures in this year's policy address, this carbon audit campaign can be further promoted.

Further to the measures proposed in last year's policy address and the work commenced last year, in this year's policy address, the Government stated clearly from the outset the promotion of low carbon economy based on low energy consumption and low pollution. The Chief Executive proposed in clear and definite terms in the policy address that clean fuels would be used and through

specific measures and the Memorandum of Understanding on clean energy signed with the Mainland, the supply of natural gas in the next 20 years will be increased, so as to improve air quality and at the same time, reduce carbon emissions in future. We propose that in this year, through the legislation on mandatory compliance with the Building Energy Codes, the energy used by newly-built and existing buildings can be reduced. The policy address also proposes the implementation of a District Cooling System at the Kai Tak Development to reduce energy consumption by the cooling systems of the buildings in this area. We also earmarked \$450 million in the Environment and Conservation Fund, which received a capital injection last year, to finance the implementation of territory-wide energy and carbon auditing. Meanwhile, funding will also be provided to some projects on energy efficiency. We hope that this can become a territory-wide campaign with the participation of over 1 000 buildings. The policy address also proposes a study on restricting the sale of incandescent light bulbs and assessing the problem of energy wastage as a result of external lighting. Not only have all these measures addressed the demands of the public and various groups, it is also hoped that through these measures, public concern about emission reduction and energy conservation can be aroused. Having successfully added 2 360 hectares to the country park area with the designation of a country park on Northern Lantau, we have proposed the designation of a geological park covering an area of 4 000 hectares, thus greatly increasing the green area in Hong Kong. We have also set the goal of jointly developing the greater Pearl River Delta (PRD) Region into a green and quality living area together with the Guangdong authorities by fostering the development of a city cluster that is founded on low energy consumption and low pollution, and in-depth discussions have been held for this purpose.

The foregoing measures show clearly that not only has the Government proposed a clear direction and strategy, it has also introduced specific measures to promote and establish a low carbon economy in a number of ways, such as legislation, policy implementation, allocation of resources, community participation and even cross-boundary co-operation. In the first meeting of the Panel on Environmental Affairs of the Legislative Council this year, I also gave a briefing on the legislative exercises and major measures and policies that we may launch this year. We hope that at the same time as the Legislative Council proposes this motion for debate, it will also continue to support bills relating to environmental protection, as it did last year, and continue to scrutinize and pass new bills at an early date, so as to strive together towards this common goal.

Deputy President, I have read Ms Audrey EU's original motion and the amendments proposed by the three Members carefully. I believe that for the past year or so, and in the policy addresses of the past two years, the Government has already spelt out its specific objectives and strategies in establishing a low carbon economy with low pollution and low energy consumption. Various Members have put forward various proposals, such as formulating medium-term and long-term goals, making reference to and studying overseas experience, offering financial incentives and encouraging the public to take part in energy conservation campaigns. In fact, the direction and beliefs behind these proposals are consistent with those proposed by the Government. I believe and hope that when the Government takes the next step of implementing these policies, it will receive the greatest possible support from Members.

In the original motion and amendments proposed by the four Members, detailed and specific proposals are put forward and they include grid connection, opening up the electricity market, cross-border co-operation, promoting the development of renewable energy sources, carrying out greening in local communities, the installation of solar power facilities and even the establishment of a databank on greenhouse gas emissions. These all-encompassing proposals reflect the great care and concern of Members about this topic. I will listen carefully to Members' comments, draw on their views and give a detailed response later.

In addition, the original motion and amendments also propose that the current Air Quality Objectives (AQO) be tightened to align them with the Air Quality Guidelines of the World Health Organization (WHO) expeditiously. Air pollution and climate change are two related issues, but they have to be dealt with separately. The former involves the handling of various pollutants harmful to health, whereas the latter is about ways to reduce the emissions of CO₂ and greenhouse gases, so as to ease the adverse effects of climate change. However, in the policy address this year, the Government attaches equal importance to these two issues and the Chief Executive has also pointed out specifically that when the Government reviews its AQO, it will adopt targets for various phases with due regard to the WHO Guidelines, so as to improve air quality in the long run. This is an important and forward-looking pledge. I will be happy to listen to the comments of various Members, then give my explanations and responses afterwards. With these remarks, I will listen sincerely to Members' comments and views on the motion.

Thank you, Deputy President.

MS CYD HO (in Cantonese): Deputy President, as a result of the dramatic global climate change, we not only see on the television the melting of glaciers in North Pole and the disappearance of the Maldives, Hong Kong people can actually feel the scorching sun, heavy rain and severe cold. Our summer is, for example, becoming hotter and hotter. Over the past two decades, the temperature has increased rapidly at a rate of 1.3°C a year, far exceeding the international standard. No soon had the Director of the Hong Kong Observatory said that there would be no winter in 10 years than we experienced severe cold for 30 days in a row. So, even ordinary people are now fully aware of the effects of global warming on our daily living. In fact, many people have started to save energy and use compact fluorescent light bulbs on their own initiative. And yet, what is more necessary is the formulation of public policies and introduction of effective measures to reduce CO₂ emissions.

However, I am gravely worried that the focus of this debate will be placed on economic and financial issues with too much emphasis on the business opportunities and financial activities arising from the restriction of carbon emissions, while neglecting the goal of emission reduction. While carbon emission quota has become a hot item in the European financial market, it has been a subject of criticism by the green groups. This is because the underlying objective of trading emission quotas openly in the financial market is to attract energy producers with high emissions to give up their highly-polluting production methods and make way for highly-efficient and environmentally-friendly electricity generators.

Another side-effect is that when people discover that the energy cost is too high, they will switch their resources and capital to the development of renewable energy until the demand reaches an efficient level. Renewable energy will then be used to replace the electricity generation method of one-time combustion. But even Mr Alan GREENSPAN said that the free market's pursuit of the largest profit will bring disaster to a society. A readily available example is the financial tsunami. Since energy is our daily necessity, I have great reservation about trading such daily necessities in the financial market. When the financial market booms, earnings from the trading of emission quotas can be regarded as added value, but they are surcharges in the eyes of the housewives who pay for the monthly electricity bill, in addition to being unnecessary fees in the production process.

While the many fund managers are enjoying attractive remunerations, they are actually borne by all households as a necessary expense. I think that this

Council should carefully consider and assess the issue of low carbon financial market. Certainly, if such things as the Lehman Brothers minibonds that are not traded in other markets can be found in our market, it is believed that Hong Kong would not be left alone when carbon credits are traded everywhere else. For this reason, I hope that the Hong Kong Government will expeditiously formulate a timetable and roadmap for emission reduction in a responsible manner, and actively co-operate with the international community with a view to achieving the goal of emission reduction.

Hong Kong is actually a tiny place. It does not have the natural conditions to promote renewable energy and must co-operate with the neighbouring regions like Guangdong Province across the boundary. Should the two places can co-operate in the production of clean energy, the long-term benefits that will be brought to the people of the two places will be even greater. Despite that the comparatively higher rates of energy production and carbon emission has enabled China to benefit from such trading, the natural disasters brought about by the dramatic climate change have also caused serious damages to developing countries devoid of any infrastructure development.

When we benefit from emission, we are at the same time paying a price in terms of the damage done to the earth and the rapid global warming. To lower emission in a cost-effective manner, we may consider imposing a tax on those coal-burning electricity generators under a tax regime, whereby the tax income will be used to subsidize low or zero carbon electricity generation. We can still achieve the goal of emission reduction without having to subject our daily necessities to the manipulation of the free market governed by the law of jungle.

Deputy President, global warming nowadays actually finds its root in the greediness of human beings. Our pursuit for comfort and convenience has resulted in the over-consumption of energy, and we are using the energy for our children. I have great reservations about whether the problem of global climate change that is attributable to the greediness of human beings can be resolved by the provision of business opportunities through the free market's pursuit of the largest profit.

Here, I also wish to broaden the perspective of low carbon economy to low carbon community. In fact, the basic stratum of a low carbon community is the redesign of our living and the processes of production and service provision, with a view to minimizing energy consumption in various human activities. And

even if energy must be consumed, such consumption has to achieve the goal of high efficiency and low emission. These redesign processes will inevitably require additional spending given the present state of the art. In the long run, however, this investment is very worthwhile.

Hong Kong is not manufacturing based, we can therefore focus our study on technologies in respect of lighting, heat reduction and insulation in various economic activities. Here, I hope that the Government will deploy resources to encourage universities to conduct research on technologies that are suitable for Hong Kong's climate, so as to assist the business sector in adopting more effective methods of operation. We may not have the ability to develop such high techniques as carbon capturing and recovery, but we may implement emission reduction measures involving neither the use of money nor high technology, nor even public spending. Light pollution is an example, where legislation may be introduced to control excessive lighting. This is one way. Another way is to return to the nature. For example, we may adjust our clock to one hour earlier or later when we have short days and long nights in winter, so as to fully utilize natural lighting. This is a low carbon community where emission reduction can be achieved at no cost.

Deputy President, members of the public have started to save energy on their own initiative. I hope that the Government will expeditiously promote emission reduction through policy formulation or the introduction of legislation, which are indeed more effective. Thank you, Deputy President.

MR WONG KWOK-HING (in Cantonese): Deputy President, while the mover of the original motion, Ms Audrey EU, deliberately dressed in green to propose her motion, I have decided to wear blue — which represents the azure sky — to express my support to the original motion and all the amendments.

Deputy President, 5 June of each year is the World Environment Day (WED). The theme of WED 2008 is "Kick the Habit! Towards a Low Carbon Economy", which calls on people to build in concert an economy with reduced carbon dioxide (CO₂) emission. Considerable emission of greenhouse gas, CO₂ in particular, into the atmosphere will result in a serious problem of climate change which is the major cause of global warming. Climate change will have profound implications on the environment, water resources, food production and even our health. Gradually, there will be no winter in Hong Kong, and we can

all feel directly the effect of global warming. Recently, a television broadcast company's anniversary celebration programme called "The Vanishing Glacier" has used melting ice as its theme. Although I do not have much time watching television, I was startled when I watched this programme every night.

Deputy President, the United Kingdom Government stated in its "Energy White Paper" as early as 2003 that our energy future is to create a low carbon economy. The goal cannot be clearer, and it is hoped that the United Kingdom could emerge as a low carbon economy. Subsequently, the European Union, Canada and New Zealand followed suit to introduce policy initiatives that head towards a low carbon economy. We always say that Hong Kong is an international city and strives to become a capital of all sorts, but insofar as environmental protection policy is concerned, Hong Kong utterly fails to bring itself on a par with the rest of the world. While countries worldwide are developing into low carbon economies, it is apparent that Hong Kong is seriously lagging behind.

Despite that it is an improvement for the Chief Executive to state in this year's policy address the promotion of a low carbon economy based on low energy consumption and low pollution, no concrete proposals have been put forth. Not only is there no mention of the measures to develop a low carbon economy, even the goals to be achieved have not been set out. As for the low carbon economy proposed by the Chief Executive, how low would it be? I hope that Secretary Edward YAU will give an elucidation because we felt pretty disappointed after hearing only the title but not any specific content.

In fact, the Government may promote a low carbon economy through different policies and legislation, and begin with, say, the city's architecture, planning and transportation. Can the goal of low carbon emission be included in the 10 major infrastructure projects proposed by the Chief Executive? For buildings, the Administration may also encourage or require the adoption of more energy-efficient technologies, the installation of energy-saving lamps and increased use of renewable energy.

For planning, the Government should enhance its greening efforts in the urban area to help purify the air. As for transportation, many European countries and cities are actively promoting the use of bicycles with a view to building up a city of bicycles. Hong Kong is a tiny place, but our population density is higher than that of New York. Even New York City Mayor Michael

BLOOMBERG has attempted to introduce this concept to New York, in the hope of reducing pollution by encouraging the use of bicycle by members of the public. In fact, our Government can also do so. The building of more cycling tracks, the provision of free bicycle rental services and the designation of parking lots for bicycles in major areas are viable measures to encourage the use of bicycles by members of the public.

Furthermore, the Government may also regulate the excess consumption of energy by commercial organizations, for example, the excessive use of air-conditioning by shopping malls and commercial buildings, or shops keeping their lights on even after business hours. This is not only a waste of energy, but it will also increase the emission of greenhouse gas. Will the Government impose regulation on this?

In the long run, it is very important to educate the public on energy conservation. Unfortunately, it seems that not much effort has been made by the Government. Apart from longer-term measures, the authorities must also improve some of the existing policies, for example, expeditiously reviewing and improving the existing Air Quality Objectives (AQO). The present AQO was formulated more than 20 years ago in 1987, and is outdated. For example, the acceptable amount of respirable suspended particulates in Hong Kong is 2.75 to 3.6 times that of the new standard of the WHO, whereas CO₂ is 17.5 times of the latter. Should we retain the standard laid down 20 years ago?

Deputy President, the financial tsunami has presented a good opportunity for the development of a new economic model. The development of a low carbon economy will not only create job opportunities and enable Hong Kong to commit itself to environmental protection, it will also enhance our competitiveness riding on the global trend of green economy. Some people may think that environmental protection is not a problem that needs to be urgently addressed for it has not yet surfaced, and we can simply stay aloof from it. But can we be so short-sighted? The purpose of environmental protection is to achieve sustainable development, not simply for the present, but for the future and our children. We must therefore assume responsibility towards our children.

To develop a low carbon economy, I consider it most important for the Government to have vision, determination and resolution. As long as the Government is determined, it can take the cause forward through policies of

different scale. I hope that the SAR Government and the Chief Executive will be able to lead Hong Kong people to make this big stride. I also hope that Secretary Edward YAU will respond to our proposals. *(The buzzer sounded)* Thank you, Deputy President.

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

MR ANDREW LEUNG (in Cantonese): Deputy President, before I formally deliver my speech, I would like to declare that I am the Chairman of the Hong Kong Productivity Council (HKPC) which engages in numerous research studies and projects of energy efficiency and clean production.

Regarding the formation of global warming and the resultant climate change, I believe many Hong Kong people should know them very clearly. Climate change will not only result in the shortage of freshwater and food, it will also cause flooding and adversely affect human health and the environment. What will be the global economic loss associated with climate change? Ms Audrey EU just now quoted from a British report, the "Stern Review on the Economics of Climate Change", which pointed out that if mitigation measures are not taken at once, climate change will lead to a loss of 5% to 20% in global gross domestic product (GDP) per annum.

The HKPC considers that a three-pronged approach should be adopted to reduce greenhouse gas emission. What are they? They are a change in our needs, enhancement of energy efficiency and use of clean energy.

First of all, a change in needs means cutting down on the use of unnecessary services and products so as to reduce energy consumption, with a view to achieving a reduction in greenhouse gas emission. To achieve this end, the SAR Government should begin with public awareness by guiding people to change their habits of living, so that they will evolve from awareness to actually leading a simple and green lifestyle by saving resources, reducing wastage and emissions.

Secondly, enhancing energy efficiency is the most direct and cost-effective way to reduce greenhouse gas emission. According to the experience of the HKPC, there is always room for further reduction in energy consumption and

emission by 10% to 30% in respect of construction and industrial energy consumption, and the return on such investment can be realized in as short as one to four years. The HKPC is launching the Cleaner Production Partnership Programme to encourage Hong Kong businesses in the Pearl River Delta (PRD) Region to improve energy efficiency and reduce emission. In January next year, we will join hands with the World Wildlife Fund to launch a low carbon production scheme to present PRD manufacturers with awards for their achievements in reducing greenhouse gas emissions.

Thirdly, it is the use of clean energy, which is the emission reduction method most frequently reported by the media. In fact, apart from solar energy and wind power, clean energy also includes nuclear energy and biomass energy. While nuclear energy has all along been neglected in the past for safety considerations, it has now regained its importance among the international community and the CLP Power Hong Kong Limited has one third of its electricity generated by nuclear energy. Biomass energy, on the other hand, involves waste-to-energy conversion facilities. Regarding the waste collected daily in Hong Kong, experts have estimated that, if it is treated in the waste-to-energy plants for conversion into thermal power, it is equivalent to 5 000 barrels of oil. In other words, this is tantamount to discovering and exploiting an oilfield that can produce 5 000 barrels of oil daily. Should the SAR Government succeed in developing biomass energy, greenhouse gas emission in Hong Kong would be reduced.

As to the question of whether there is a need to set medium- to long-term goals, I consider that reference should be made to regions the scale of economic development of which is similar to that of Hong Kong and widely consult people from all walks of life. We can formulate practical goals, strategies and legislation that suit Hong Kong's situation only after a consensus is reached. And yet, this cannot be achieved overnight. It is therefore necessary for the SAR Government to introduce a series of measures that would enable the community to be geared towards greenhouse gas emission reduction. I noticed that in July this year, the Environmental Protection Department (EPD) had launched a technical guideline for the conduct of carbon audit on buildings in a voluntary manner. The HKPC has been actively discussing with the EPD about the establishment of a commendation mechanism.

Provision of incentives and formulation of measures are also effective ways to encourage members of the public to save energy. I consider that efforts

should be made to extend these measures to different sectors of the community, including the PRD factories owned by Hong Kong businessmen, with a view to providing assistance to the industrial sector in the adoption of low-carbon production methods.

Apart from enhancing the awareness of and educating the general public and students about the reduction of greenhouse gas emission and low carbon economy, the SAR Government must also co-ordinate the study on reduction of greenhouse gas emission by different tertiary institutions and research units, with a view to turning the findings into a commodity for promoting the development of a low carbon economy. The Environment Bureau, on the other hand, may proactively examine how the development of waste-to-energy can be speeded up, which is indeed an effective way to reduce greenhouse gas emission and address the disposal of municipal solid waste. Meanwhile, the authorities must also work in concert with the Guangdong authorities in the design and planning of clean energy, including the application of nuclear energy, solar energy and wind power.

Deputy President, I so submit.

MR JEFFREY LAM (in Cantonese): Deputy President, weather has always been a popular political or economic topic. When Chinese State Council Premier WEN Jiabao, for instance, talked about the provision of assistance to the enterprises in this month, he said, "If winter comes, will spring be far away?" I really hope that spring will come quickly, especially in the prevailing economic environment.

Weather has actually become an important issue of global environmental protection in recent years, because even our Chief Executive Donald TSANG called on various regions not to cut down on their environmental spending when he attended the meeting of the Asia-Pacific Economic Cooperation the other day.

I always say I hope to see the blue sky every day, but we can only see the blue sky occasionally in Hong Kong. Members can take a look at the sky above the Victoria Harbour today, it is not bad indeed.

In this year's policy address, the Chief Executive mentioned the challenges brought about by climate change, pointing out that Hong Kong should prepare

itself by enhancing energy efficiency, using clean energy, reducing the reliance on fossil fuel, promoting a low carbon economy based on low energy consumption and low pollution. I think that this is the right way to go, but no detail has been provided as to how this can be achieved in practice.

Let us first talk about the Air Quality Objectives (AQO). In 2002, the Guangdong and Hong Kong Governments agreed that the target that should be achieved by 2010. How about the target beyond 2010? This question has been asked by me since the last term, but the authorities simple replied that consideration would be made in conjunction with the Guangdong Provincial Government. For the "Green Quality Living Sphere of the Greater Pearl River Delta Region" proposed by the authorities, no details have been provided as to how it will be developed.

Since both Guangdong and Hong Kong share the same sky, we therefore need to study together the ways to improve air quality. However, as 2010 will come in a year or so, the authorities must expeditiously formulate clear goals to show its vigour of tackling air pollution.

While busy dealing with the financial tsunami, the enterprises are still very concerned about and attach great importance to green living. This is because environmental initiatives will bring long-term benefits to the enterprises and society at large, and may even help save energy resources, enhance productivity and upgrade competitiveness. The Cleaner Production Partnership Programme launched in the Pearl River Delta (PRD) Region is operating at full steam with very active responses from the enterprises. They have re-designed their production processes, such as the recycling of waste water and reduced use of paints with volatile organic compounds. All of these are part of green production.

In addition to the formulation of new air pollution index, the existing AQO has been used for 21 years in Hong Kong. Given the drastic changes in various aspects of social development, there is an urgent need to update it. The 18-month AQO review conducted by the EPD is rearing completion. Since the authorities have previously indicated that the review would be completed within this year, I hope that the result can be released as early as possible. We can then have a more stringent benchmark to monitor local air pollution, and draw up proposals and strategies to demonstrate the Government's determination to protect members of the public from the effect of air pollution.

Insofar as local air pollution is concerned, Members should know that the major source is electricity generation. To reduce pollution caused by the power plants, I think we must begin with a two-pronged approach. One is members of the public should cut down on the use of electricity, and the second is power companies should switch to using more clean energy for power generation.

In the past few years, the Clean Air Charter of the Hong Kong General Chamber of Commerce has not only encouraged enterprises to cut down on energy consumption and pollutant emission in the course of operation, it has also called on the general public to begin with their daily life and work. For example, unnecessary lights, air conditioners, computers and even photocopiers and printers should be turned off. These living habits are effective ways to reduce carbon emission and help save a lot of energy.

For electricity generation, I am very glad that the SAR Government and the National Energy Administration signed a Memorandum of Understanding on energy in August this year to ensure a stable supply of natural gas to Hong Kong. This has enabled Hong Kong to gradually increase the use of natural gas and cut down on the use of coal in the generation of electricity, thereby reducing pollution. Furthermore, I am aware that the two power companies are studying the development of renewable energy, like the study on wind power generation which includes the development of a wind farm in Hong Kong waters. I hope that the Government will keep a close watch on the relevant progress, and strike a balance among the interests of the power companies, the environment and the general public.

As for roadside air pollution, the vehicle conversion scheme introduced by the Government to replace pre-Euro or Euro I diesel commercial vehicles has failed to attract satisfactory response. The Secretary recently advised that consideration would be given to increasing the licence fees so as to compel vehicle owners to replace their vehicles. And yet, I do not think the introduction of a stringent measure is the only way out as vehicle owners may not be able to secure the necessary loans from banks. I believe this kind of measure may not be acceptable to the vehicle owners in such an economic condition, so I hope that the Secretary would think twice.

In addition, I also support the development of the biofuel market and other clean alternatives. However, the authorities have been maintaining that

reference is being made to the standard of the European Union. I hope the authorities will expeditiously implement the necessary arrangements and will not issue a cheque only to be dishonoured again.

Deputy President, I so submit.

MR LEE WING-TAT (in Cantonese): Deputy President, on a very rare occasion, I had a day off and went hiking two weeks ago. When I arrived at the Needle Hill near the Shing Mun Reservoir, I saw the long lost blue sky. However, when I looked at the sky again last week, the blue sky was nowhere to be found. At that time, I was standing at the peak of the Needle Hill. It is pretty high and I was exhausted when I got there. When I looked at the Shing Mun Reservoir, the surrounding hills and the blue sky at the top of the hill, I wondered how often we could have a chance to look at the blue sky when we go hiking. With my 30 years' experience in hiking, the percentage of seeing a blue sky is becoming lower nowadays. When I went up Tai Mo Shan in the past, I could see Cheung Chau very clearly. When I looked at Cheung Chau at the Needle Hill that day, I could only see the contours but not the whole picture of Cheung Chau.

Deputy President, this issue has troubled the public for many years. I learnt that in this year's policy address, the Chief Executive has indicated his wish to promote the so-called low carbon economy. The Democratic Party does have very high expectations. However, it has been seven to eight weeks since the announcement of his intention. No comprehensive strategy has been proposed by the Government or the Bureau so far. Neither is any relevant policy implemented. If they are empty slogans not supported by concrete policies or strategies of implementation, it would only give people an impression that the Government has again indulged in talks. Secretary, I hope that we are wrong — it is hoped that both the Democratic Party and LEE Wing-tat are wrong, and the Government, the Chief Executive and the Secretary have actually formulated a comprehensive policy concerning low carbon economy that can respond to the aspirations of people from all walks of life, that they have actually started to implement it.

Deputy President, I do not wish to comment on every single issue, but I will only discuss a few points. Firstly, I wish to talk about the relationship between housing which is familiar to me and the promotion of a low carbon

economy. When I was a member of the Housing Authority (HA), which was around 1997, I already started to request it to conduct within the HA environmental inspections. The HA was pretty advanced to have introduced the concept of energy audit as early as 1996 and 1997. We may certainly discuss the overall progress, but at least the first step has been made.

We can see that the owner of the largest number of buildings and collective buildings of the largest scale in Hong Kong is the HA. At the last meeting of the Panel on Environmental Affairs, I raised the point that if the Environment Bureau and the HA could successfully cut down on carbon production by introducing greening in the HA's housing estates from an experimental and practical point of view, it will bring significant benefits to all of its housing estates and even society as a whole.

A number of Legislative Council Members such as Dr Joseph LEE, Mr CHAN Kam-lam and Mr Fred LI of the Democratic Party are HA members. I hope colleagues will agree that if the HA can put this common concept of all parties to test, it will achieve great success. I know that Lam Tin Estate was selected as a test point this year, where heat-absorbing panels that could generate renewable energy were installed on the roofs and covered pedestrian walkways. The report, I believe, will be encouraging. I hope that with the encouragement of the Government, these energy panels will be installed on a large scale on the roofs and other possible space of nearly 200 HA housing estates.

Furthermore, just as I said at the last Panel meeting, considerable tree-planting efforts have been made in Hong Kong. And yet, vertical greening is still possible on numerous concrete surfaces, especially the external walls of buildings. I know that pilot tests have been conducted by the HA. I have also asked about the costs of it and found that it is comparatively more expensive because vertical greening is difficult on completed buildings. I hope that when HA staff submit the design and proposals for the construction of new buildings to this Council, they will incorporate this concept into the building design so as to include vertical greening in the construction of new buildings. This will obviate the need to build a vertical concrete plate in the existing housing estates for the planting of climbing plants, and I think this will bring more benefits to buildings to be constructed in future.

Furthermore, what I would like to say is about I have talked to the Secretary for many times, but he has simply ignored me. It is about the use of

vehicles. At the meeting of the Panel on Development yesterday, I said that — Deputy President, you will also be very pleased — it appeared that members reached a consensus at yesterday's meeting on Phase III (sic) of the Central-Wan Chai Bypass immediately going ahead. A problem is then solved because one of the reasons for the Government rejecting the implementation of electronic road pricing is the absence of a substitute road. I hope that this road will help prevent the Government from wavering again in the future.

I was nonetheless seriously upset by the reply given by an official of the Transport Department yesterday. I told him, according to the former London Mayor LIVINGSTONE, all new roads would definitely be filled up three years after commissioning, and they could never satisfy drivers' needs. For this reason, I can only exercise self-restraint by not driving to Central, just as I said on the last occasion. I am very glad that I did not drive to Central on Monday, Tuesday and Wednesday so as not to further aggravate the traffic congestion problem in Central and cause inconvenience to other people.

But will there be any incentives to encourage people to use public transport while restraining from driving into the urban areas and even penalize (penalize is a good word) them after the commissioning of the Central-Wan Chai Bypass? The Democratic Party has all along maintained a very clear stance on this issue, and though I am aware that this is not supported by vehicle owners, I have to make it known because every driver should know that their behaviour will contribute to this serious air pollution problem. Therefore, the Secretary needs to discuss with the Development Bureau or make reference to Beijing of our Motherland. During the Olympic Games, the use of vehicles was restricted subject to the number of their plates. This had achieved great success. But I am not sure whether the scheme concerned is still in use. Why is it not possible for Hong Kong to do so in the future? Why do the drivers of private cars not consider making some sacrifices themselves? It may not be necessary for them to drive every day as it is also very comfortable to ride on the MTR or a bus. In that way, the problem of global warming can be ameliorated. Everyone must therefore do something. Thank you, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): I consider today's topic a very good one, and I support the original motion and the several amendments. There is one point which I want very much to say to the Secretary. As we can observe, the environmental issue is often linked with economic development, and once linked,

a serious conflict will arise, and we are often required to decide whether priority should be given to environmental protection or economic development. It seems that we are facing the same difficulty in each and every issue.

Similar issues have been discussed at the meeting of the Panel on Environmental Affairs a few days ago. In fact, the direction of environmental protection under discussion is a matter of thinking. In Hong Kong, development is rapid and multifarious. Earlier on, another Member mentioned that the increase in licence fee was apparently proposed by a Legislative Council Member a few years ago and was endorsed. It nonetheless meets with objection when it is proposed today. We understand very well why this would happen. This is because society has changed, so does the economic environment. As a result, the proposal made two years ago has imposed tremendous pressure on the affected parties, so much so that it has become financially unbearable to them. So, from the perspective of the people's livelihood, we cannot support it either. But are environmental protection and economic development really contradictory to each other? This is the issue that I eagerly wish Members could consider from a higher level.

A few days ago, I said that a win-win situation could be achieved in environmental issues so that everyone is pleased. The prevailing economic predicament is originally a crisis, but in my opinion, it has instead given the Environment Bureau plenty of opportunities as people are very supportive of the Bureau. Nowadays, we often hear "the need to create job opportunities". As long as the Bureau can input resources in environmental protection in a way that job opportunities would be created, Members will have reason to support the necessary actions. The Environment Bureau therefore stands the greatest chance of securing the most support. Insofar as the projects, education and creative industries relating to environmental protection are concerned, I think that given the present thinking, they can never be brought into full play to cater for the imminent economic recession.

Concerning today's topic, I wish to highlight in particular the economic incentives and measures that have been put in place to encourage people to save more energy. As regards incentives to encourage people to save energy, I think we should certainly begin with purchasing. Green purchase is actually a very basic action, through which the Government can input more resources, take the lead to implement more policies, promote a heightened awareness of environmental protection and then actually implement the measures among the

small enterprises. If small enterprises can be provided with more financial assistance and job opportunities, they may employ more staff and the industry would therefore become more creative.

The so-called green products are products causing the least pollution and having minimal effect on our environment after taking into consideration their design, production methods, transportation and disposal. In such developing countries as China, the Philippines and Thailand, timetables have been drawn up and a green purchase policy has been implemented in some measure. In order to enable people to live a lifestyle of low pollution and low energy consumption, we should start thinking about the enactment of legislation on green purchase, which is also the direction that we should be heading. Legislation is also the beginning of education, through which more people will become aware of the importance of environmental protection. What is more, this is the way we should live. With the Government taking the lead in implementing green purchase, large-scale enterprises should follow the guidelines whereas the small and medium enterprises may create new types of jobs in the face of the present economic recession. When the products finally come into the market, people will be well aware of their importance. Furthermore, many large-scale enterprises are actually the major source of energy consumption and pollution. I consider that the introduction of legislation by the Government on green purchase not only encourages enterprises and members of the public to reduce pollution and save energy, it also helps attain two objectives direct by a single move.

We have actually long since promoted green purchase to the public. And yet, it appears that the government officials, business sector and members of the public still remain at a very preliminary stage. In fact, we have high hopes for the Government, hoping that the Environment Bureau could bring in more ideas. In my opinion, if the Bureau can really make a breakthrough in the proposals in respect of policy, education and human resources, we will definitely fully support it.

In the amendment, Mr KAM Nai-wai mentioned the proposal of "installing solar power facilities on the roofs of newly built public housing blocks and covered pedestrian walkways". I consider that apart from the need to encourage private developers to do so The 10 major infrastructure projects are a popular topic nowadays. Is it possible to incorporate such a concept into such new projects as the 10 major projects, the Western Kowloon Cultural District, the Kai Tak development and the existing Wan Chai Bypass? Not only will the

types of jobs be increased, those major infrastructure projects will also be made more popular in the future.

However, Mr CHAN Hak-kan proposed to "discuss with the power companies the inclusion of carbon emissions of users in their electricity bills". I personally have some reservations about this proposal because I believe not many people understand such information. So, even if the details are set out in the electricity bills, people may not be aware of them and hence no significant effect may necessarily be achieved.

Insofar as the overall direction is concerned, we have all along hoped that under the "carrot and stick" policy, the Government would use more "carrots" in promoting environmental protection in an attempt to tie in with economic development. The idea is to use more "carrots" rather than punishments now and in the next couple of years. For example, I have seen many cases of success in California where people enjoyed free rides on the rail for two days and they were very happy. This can promote environmental protection on the one hand, and save money on the other. I therefore opine that the Bureau should consider using more "carrots", which will certainly gain the majority support of Members. In fact, the Bureau should face this with a happy heart and make the promotion of environmental protection a pleasant thing for everyone, instead of meeting the coming initiatives with a sad face. Thank you.

DR SAMSON TAM (in Cantonese): Deputy President, the Chief Executive has proposed in the policy address to promote a low carbon economy based on low energy consumption and low pollution. I suppose no one will disagree to this policy, and I am especially concerned about the ways in which the Government can effectively formulate the required policy. I believe the Government must make reference to the experience of advanced cities in other countries, so as to find out what we can learn from them and then formulate specific policies, objectives, strategies and proposals.

As far as I know, other countries have conducted lots of research on this topic. In February 2007, the United Nations published a comprehensive research report and made many recommendations on controlling climate change and promoting sustainable development in a focused manner. There is also a website, worldchanging.com, which is devoted to studies on town planning in many cities of various countries, especially those cities that have been

outstanding in enhancing overall energy efficiency through town planning. I believe the Government must study and learn from all such experience of foreign countries.

To begin with, Vancouver has made huge efforts to promote energy efficiency in its town planning. It is practically unrivalled in this respect because despite its 50% population increase over the past 20 years, the city has never expanded to its suburbs. Quite the contrary, population settlements have been grouped together to form a community thoroughly accessible on foot, that is, to achieve the effect of more people than vehicles. Town planning in Hong Kong is just the opposite. In the case of Tseung Kwan O, for example, owing to unsatisfactory town planning, many people must still travel by vehicle even when they want to go shopping in nearby places. This is certainly a negative example of energy conservation and emissions reduction.

Another point is that in order to enhance energy efficiency, we must make efforts in respect of commercial and residential buildings. The Government must therefore improve the Buildings Ordinance by introducing provisions on energy efficiency. In particular, more efforts must be made in respect of lighting and air-conditioning systems, and the Energy Efficiency Labelling Scheme must be expanded and implemented as soon as possible. Special attention must be paid to the insulation installations of air-conditioning systems because materials with poor insulation effects are still used in many buildings. According to experts, the use of satisfactory insulation installations can easily achieve a 30% reduction in energy consumption. I therefore think that such technologies must be introduced into Hong Kong, and more local people must be given the professional training required. I believe that once the required talents are available in Hong Kong, we will be able to offer various consultancy services to places in the Asia-Pacific Region.

(THE PRESIDENT resumed the Chair)

Finally, I maintain that the Government must invest more resources in education and publicity. On the one hand, enterprises must be educated, so as to increase their awareness of carbon emissions. On the other hand, public education must be conducted to make the public understand how we can protect the Earth, to make them realize that sustainable development in the future can be

possible only when energy consumption is reduced. Here, I would like to introduce Honourable colleagues to a website, <www.myfootprint.org>. There is a quiz made up of a dozen or so simple questions. All these questions are related closely to our daily life. On completion of the quiz, results will be displayed, telling the respondent how many "Earths" we must need if everyone lives his or her lifestyle. Apart from some warnings about inadequate resources, the website also makes some suggestions on how we can try to change our lifestyles in order to reduce the pollution of the Earth and energy consumption. I believe that the Earth can have some breathing space only if everybody can start reducing energy consumption now and if the Government can make more efforts to promote the cause.

President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): The Secretary is a "high-flyer" because he has risen rapidly through the ranks to his present position. I cannot remember exactly from which point in the Directorate Pay Scale he actually started. It suffices to say that his case is unprecedented, to the envy of all.

I remember that there was a certain official in imperial China named NIAN Geng-yao. Because he offended the Emperor, he was demoted 18 ranks to head the garrison at a city gate. I wonder whether the Secretary should also be assigned to head the garrison at a city gate. Well, there should be some objective criteria. Earlier today, when I walked past the entrance of the Legislative Council Building, I saw a protest staged by Greenpeace. The protesters waited a whole hour for the Secretary. But the Secretary was very busy and preoccupied with other business. What I want to talk about now is accountability. May I ask the Secretary where he has been all day? Can he show us his schedule for today? Was he having lunch with people from CLP Power Hong Kong Limited? Or, was he preoccupied with something else. As a government official, he still replied that he was very busy after some people had made an appointment with him. I once came across a similar government official. Since he wanted to bet on horses or do something else, he always said that he was busy. Buddy, how do you interpret accountability? Greenpeace is an international organization. Just click into YouTube, and one can see lots of information about its protests. They asked for a meeting with the Secretary, but he simply replied that he was busy. I think the Secretary is very arrogant. If possible, he should show us his schedule for today.

There is still something very "interesting" about Secretary Edward YAU's behaviour. They asked him whether the Government would update its outdated air quality guidelines, so as to bring them in line with the air quality guidelines announced by the World Health Organization (WHO) in 2000. Perhaps he was really very busy, so he replied while still hurrying along. He said, "The public should be consulted on whether the present Air Quality Objectives are not strict enough." This is a good example of irrelevant answers. They asked whether our present air quality guidelines are in line with those of WHO, but the Secretary replied that the decision should be left to the public. He also said, "The public must be consulted in case our guidelines are to be tightened and brought in line with those of WHO." But what should be the subject of consultation? Should the consultation focus on whether our guidelines should be brought in line with those of WHO? Or, should it focus on the question of how? Buddy, you must give an explanation.

Maybe, he was really very busy. But just now, in less than a minute, I could already repeat all his words. Precisely, I spent only 30 seconds on that. How can there be any communication at all. One must make a booking to meet with him. But he just will not upload his schedule to the website for my information. If I can have a look at his schedule, I will certainly make an Internet booking with the Secretary. I will certainly book a time slot in advance. All is just like pressing the "Request-to-speak" button by Members in this Chamber. Once the button is pressed, I will be called upon to speak when my turn comes. And, in the interim, I may leave the Chamber to make a telephone call or do something else.

Maybe, the Secretary must be punished and assigned to head the garrison at a city gate. The reason is that Hong Kong has not made any achievements in emissions trading. The two power companies say that there is no need for emissions trading, arguing that it is already enough to construct a liquefied natural gas plant and the Unit 10 generator in Lamma Power Station. They claim that there is no need for "cap and trade" and introducing the guidelines adopted by other countries.

What is the Secretary's attitude? Does he agree with these two enterprises? At present, we are not only faced with internal pollution. Hong Kong is also affected by pollution from the north. If the two power companies are not required to reduce emissions, or if they do not have to be penalized I mean, if they can simply purchase emission quotas from other enterprises, there will be no costs for them, and they will do whatever they like.

What actually is the problem? President, I have actually talked about this many times before. I have recently heard that JIANG Zemin's son is going to buy up the telecommunications company owned by LI Ka-shing's son. And, I have also heard that LI Peng's daughter may buy the two power companies. The tycoons in the two places may then own one another's assets. This is the globalization of capitalism, and everybody can buy one another's assets through commercial papers. On this issue, the Government of Hong Kong has done absolutely nothing and completely ignored all the proven international standards. We often talk about Nylonkong, meaning that after New York and London, there will be Hong Kong. But Hong Kong has never done what California has done. All the time, we talk only about how high the stocks index is. We always say the higher the index, the better. We do not think that a high pollution index will cause any problem. We only think that the most important thing should be a high stocks index, right? Therefore, I must say that the Secretary is not being fair at all. I hope he can explain why he treated Greenpeace with such a grim face?

He should not be scared because I am not going to hurl anything at him. If I really hurl this thing at him, his head will surely be hurt. This thing is called Grim Face, President. This is called Grim Face, made from discarded materials. I am truly an environmentalist. It was a gift from somebody for my goddaughter. I forgot to hand it to her, so I have given her a picture drawn by me instead. This thing, which pulls a long face whenever it hears anything it does not like, is called Grim Face. He should also be called Grim Face. Government officials It is not necessary to meet with any government officials, for they are so humble in position. People will only talk to all those up above. Buddy, when he talks to business tycoons, he does not dare to utter a word. But he will become Grim Face when he deals with Greenpeace and poor and powerless people. He should not behave like this. I think he must tell us today how much time he has spent on dealing with business tycoons and green groups with expertise in environmental protection. LEE Wing-tat advises him to introduce roof-top solar energy installations, and he is also aware that in a certain German town, legislation has been enacted to introduce such installations. Will we also do so? Will we develop green industries, as TUNG Chee-hwa was already advised six years ago? I think he owes an explanation to all those people.

All is so simple. My compatriots from the Mainland, there is no universal suffrage in Hong Kong. All is just like your Deputies to the National People's

Congress. There is no election based on universal suffrage. The present situation has thus resulted. This is an eye-opener for you all.

President, I so submit. I must condemn him. He had better show us his schedule. *(The buzzer sounded)*

PRESIDENT (in Cantonese): Mr LEUNG, time is up.

MR LEUNG KWOK-HUNG (in Cantonese): or he will be Grim Face.

MR TOMMY CHEUNG (in Cantonese): President, according to the temperature records kept by the Hong Kong Observatory, the average temperature in Hong Kong increased by 0.17°C every 10 years during the post-war period from 1947 to 2007. But then, between 1989 and 2007, the temperature increase doubled, amounting to 0.34°C every 10 years. As explained by the Hong Kong Observatory, the increase in the average temperature was attributable to both global warming and local circumstances, such as the effects of urbanization. According to a research report published by the United Nations last year, the temperature on the Earth will further rise by 1.1°C to 6.4°C in this century. As forecast by the National Aeronautics and Space Administration of the United States, an increase of 3°C in the global temperature will flood the northwestern coast of Hong Kong Island, Kowloon City, Hung Hom, Tsim Sha Tsui and the entire West Kowloon. It is fortunate that the President's constituency is Hong Kong Island. If not, his constituency will be flooded and he will not be able to run in any elections. I am afraid that it will no longer be necessary to rely on any special computer effects to create the flooding scene in New York City as depicted in the movie "The Day After Tomorrow". To a very large extent, this is caused by the increasing emission of CO₂ resulting from man's consumption of fossil fuels, for CO₂ "contributes" as much as 55% of the greenhouse gases causing global warming.

For this reason, countries all over the world have been striving to promote low carbon economies based on low energy consumption, low pollution and low emission. Under the Kyoto Protocol signed in 1997, all developed countries are required to reduce, by 2010, their collective emission of greenhouse gases by at least 5% against the levels in 1990.

Although China is only a developing country, it also ratified the Kyoto Protocol in 2002. As a Special Administrative Region of China, and, more importantly, as a developed city, Hong Kong should naturally show greater determination and commitment.

As a matter of fact, there are basically no more traditional industries in Hong Kong. However, within the 10 years from 1995 to 2005, the emission of greenhouse gas in Hong Kong still increased by 7%, or 3 million tonnes, up from 41.7 million tonnes, and our electricity consumption also soared by 18.15%. But during the same period, the rate of our population increase was only 5.89%. There was thus a disproportion between the increases. The Liberal Party therefore agrees that the authorities should formulate sensible interim and long-term targets for the total emission of greenhouse gases in Hong Kong.

Power plants are the greatest source of CO₂ emission in Hong Kong. For this reason, the Liberal Party supports the idea of conducting studies on imposing regulation on the emission of CO₂. Through the use of natural gas, power plants can reduce their CO₂ emission by half. However, we must also find out whether the higher prices of natural gas will add to the burden of the public. We hope that following the transfer of natural gas from the western regions to the eastern regions of China, the Government can strive to ensure a stable and adequate supply of natural gas, so as to avoid any price fluctuations that may affect people's livelihood.

At present, the reserve margins of the two power companies are both around 30%. If interconnection can be implemented, it will be possible to avoid the additional emission of CO₂ resulting from excessive reserve margins. Besides, grid access may also help introduce green energies.

Vehicular traffic is another major cause of CO₂ emission. Unfortunately, however, even when we look only at the introduction of environmental vehicles, we will see that Hong Kong lags behind many other places. For example, in recent years, natural gas vehicles have already been introduced in Beijing, Nanjing and even some regional central cities such as Guiyang in the Mainland. The emission of CO₂ by vehicles may thus be reduced by 25%, and natural gas may also be used by heavy vehicles. The Government should actively explore such a possibility.

Honestly speaking, in the midst of the global financial crisis, environmental protection may well be one of the ways of economic revitalization. In the RMB 4,000 billion yuen scheme announced earlier by the Central Government to boost the mainland economy, the promotion of eco-environmental construction is precisely one of the initiatives. And, during his election campaign, OBAMA similarly focused on a green energy scheme. If we can grasp the opportunity, we will not only do good to the environment but also generate many business opportunities.

President, in recent years, in a bid to promote low carbon economy, there has emerged a trend of "compensation". People are encouraged to practise "carbon compensation" when they cannot reduce the carbon emission of their activities. They are encouraged to donate money as "compensation" after generating CO₂ in their activities, and the money is spent on planting trees or other environmental projects. Or, they are encouraged to drive their own cars less frequently as an "offset".

The original motion proposes to formulate an implementation timetable for aligning the current standards of the Air Quality Objectives (AQO) in Hong Kong with the World Health Organization (WHO) Air Quality Guidelines. This proposal has our strong support. On the other hand, Mr KAM Nai-wai proposes to raise by 2012 our AQO to the standards adopted by the European Union, and to implement the standards prescribed by the WHO by 2015. We naturally hope that the Government can do so. But I also wish to cite the example of the United Kingdom. In July last year, it was forecast that in respect of the reduction target for particulates less than 2.5 microns, the target of 25 micrograms per cu m can only be achieved in 2020 or before. This will be five years behind the implementation of the European Union standards. And, this is not to speak of the fact that the WHO standard is as high as 10 micrograms per cu m. Hong Kong has not even implemented any regulation of particulates less than 2.5 microns. We therefore hope that the Government can redouble efforts, instead of doing nothing or simply avoid mentioning the issue on the ground that the whole thing is very difficult.

As for the proposal on "low emission zones", we hold that care must be taken not to affect the air quality in other places in the course of implementing the proposal, lest the well-being of some may result in the suffering of others.

Actually, the rationalization of bus routes and the improvement of pedestrian precinct and cycling path networks are also low-cost and effective solutions.

While the Government must make efforts, individuals may also help reduce the emission of CO₂ by adjusting their habits in living. I hope that everybody can take concrete actions to reduce the emission of CO₂.

President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, when it comes to environmental protection and the improvement of air quality, I believe no one will voice any objection. Quite the contrary, there will be unanimous support.

All along, many people have been arguing that environmental protection is a luxury. I am especially worried that amidst the present financial tsunami, many people may argue that environmental protection requires huge resources, question whether it should be regarded as a necessity, and advocate that we should have reservations about making any environmental efforts.

President, as I have mentioned, the alarm of global warming and ecological imbalance has already been sounded. Today, when faced with such a problem, we should no longer regard environmental protection as a luxury. Rather, I think we should regard it as a necessity. In all the discussions on how to survive the present economic crisis, many countries have come to realize this problem, and they invariably include environmental protection or the promotion of a low carbon economy as part of their schemes on tackling the economic crisis.

As pointed out by many colleagues just now, OBAMA, the President-Elect of the United States, has been advocating the investment of huge resources, as much as US\$150 billion, on all the studies relating to a green energy scheme, hoping that in the next 10 years, great progress can be made, especially in ending the reliance on oil as a means of development and identifying renewable energy resources to replace oil.

Besides the United States, many European countries, such as the United Kingdom and France, have also made enormous efforts. In the United Kingdom, a white paper entitled "Our Energy Future: Creating a Low Carbon Economy" was published some time ago. In this white paper, the target of

achieving a 60% reduction in CO₂ reduction by 2050 is mentioned. And, we can observe that apart from the United Kingdom, France has also made such efforts. France similarly hopes that by 2020, it can reduce its emission of greenhouse gases to 60% of the present total volume. The case of Japan is even more remarkable. Why am I especially delighted when talking about Japan? The reason is that it plans to install solar power facilities in all of its secondary and primary schools. It is hoped that by 2020 and 2030, the volume of solar electricity generated by the country can respectively reach 10 times and 40 times of the volume in 2005. In the United States, Europe and Asia, roadmaps and timeframes on the achievement of various targets have been formulated. These can all be observed very clearly.

President, what has Hong Kong announced so far? The recently announced policy address, for example, makes no mention of this. There is no timeframe, nor any roadmap. How are we going to tackle this problem? The Chief Executive has established the Task Force on Economic Challenges as a means of tackling the economic crisis, but even so, it is such a great pity, President, that none of the members are connected with Let us not talk about any experts; there are not any members who have shown even the slightest concern about green economy. For this reason, we will certainly lag behind others. In other places also hit by the economic crisis, the promotion of green economy is not simply meant to promote environmental protection. The most important aim, which happens to be my great concern, is the creation of employment opportunities. The most important function of a green economy is the creation of posts. This is a great concern of mine.

It is a pity that the Administration has simply been telling us that in order to tackle the economic crisis, especially the problem of unemployment, it will expedite the launching of works projects, large and small. Apart from this, it has not put forward any other measures. It has not even put forward any short-term measures, not to speak of any long-term ones. I am therefore extremely worried. The Government has been lagging behind others in tackling the economic crisis. Worse still, it is similarly behind others in the promotion of a green economy and a low carbon economy. What are we going to do?

I think the Government must review and completely change its overall economic approach and then tell us that it is not myopic and has formulated a long-term strategy, and this strategy will focus on and invest resources in the long-term objective of fostering a low carbon economy, especially environmental

protection. In other countries, resources are invested not only to tackle the economic crisis but, more importantly, also to restore confidence and create employment opportunities, so that people can see prospects. Nowadays, apart from not knowing how to tackle the crisis before them, Hong Kong people are most worried about the lack of any prospects.

All the places I have mentioned — the United States, Europe and Asia (Japan, for example) — have drawn up comprehensive plans and objectives. This is the most important point. Seeing that the Hong Kong Government has been doing nothing, President, we are really very disappointed. We cannot but think that this Government is really incompetent.

I therefore think that Ms Audrey EU's motion today is certainly wonderful, wonderful in the sense that it is most timely, serving to wake up the Government. The Task Force on Economic Challenges, which the Government relies so much on, does not have the required talents and mindset. I hope that the Task Force can set a new direction for itself and give the Hong Kong economy a booster. I hope that it will not make us feel so helpless, thinking that it is nothing but just a "talk show". This will not be so good anyway.

President, I so submit.

MR WONG YUK-MAN (in Cantonese): President, the SAR Government has proposed to build a low carbon economy. For some, it is better late than never, but the SAR Government's countless failures in the past in putting words into action has given us very deep impressions. So, we cannot help questioning the SAR Government's claim to build a low carbon economy.

In 2005, the Administration launched the Action Blue Sky Campaign. When I heard about the Action Blue Sky Campaign at that time, I was startled, and I could not help asking when Donald TSANG had joined the Kuomintang (KMT). The KMT has stated clearly that the sky will be blue again, and finally, the sky became blue again early this year, right? Because the KMT has once again become the ruling party, but the sky in Taipei is still heavily polluted; and Taiwan continues to have a foul atmosphere in respect of politics.

Actually, it is after all money that causes all the trouble. It was stated before that there was panic about the withdrawal of foreign investment. If

Honourable colleagues have read a cover story in the Chinese version of *Yazhou Zhoukan* — back in 2004, I am not sure what office the Secretary held at that time, he was I have forgotten about the office held by the Secretary then. President, what office did the Secretary hold then? He was certainly not holding his current office, and it seemed that he was not the Director of Information Services, right? He was going everywhere with the Chief Executive No? He was the Director of Information Services? OK. He is now focused on building a low carbon economy.

Talking about "economy", are there business opportunities? We wish the SAR Government will promote environmental protection, and it would be best for it to do so with a relatively pure motive. It has to fulfil its responsibilities as a member of the so-called global village, for the sake of our children, continuous operation and sustainable development, right? The Chinese people often think so; but for me, this world is the world I belong to before I die; as I cannot see the world after I die, does it have anything to do with me?

However, our views are different now, for we cannot treat symptoms but not the diseases anymore. Concerning the Action Blue Sky Campaign, in the past, autumn was the best season in Hong Kong, in fact, it is also the case today; autumn is the best but, in Hong Kong nowadays, the weather is no longer warm and dry, and there is no longer a clear sky on sunny days. These have become the features of Hong Kong. In recent years, Hong Kong people have wanted the sky to become blue again; frankly, it cannot be accomplished by the Action Blue Sky Campaign of the Government and insignificant petty actions. The Government has repeatedly emphasized switching off the engines of idling vehicles and keeping the room temperature at 25.5°C, and the Chief Executive and government officials have repeatedly stressed the importance of these matters. Some issues are related to the general situation and have significant effects on environmental protection, for example, putting pressure on the power companies and requiring them to reduce coal burning, install additional desulphurization units and align the outdated 1987 Air Quality Guidelines currently in force with the 2006 Air Quality Guidelines of the World Health Organization. But nothing has been done in these areas, right? The authorities gently let off the Government and large consortia in spite of their responsibilities; as to ordinary people, the Government has forced their compliance by all means and told us that it has taken actions.

Two weeks ago, I asked the Financial Secretary when we were in this Chamber whether he would review the so-called "big market, small government" governing concept that has all along been adopted throughout the years, and the answer I got was very dissatisfactory indeed. He is still saying that a free market is the cornerstone for the success of Hong Kong: the "big market, small government" principle has to be continuously adopted and upheld.

Around two days after I had asked the question, on the eve of the G20 summit, BUSH made a speech at Wall Street, and blindly supported the argument about the omnipotence of the market. The Chief Executive or the SAR Government might be very pleased because BUSH mentioned Hong Kong when he spoke in support of the free market. Wow! How lucky he was. Even BUSH carried his sedan chair and went onstage to support him. Nevertheless, let us make it clear that BUSH will leave office and step down soon, and the whole Republican Government is going to step down including him. The Democratic Party is now the ruling party, buddy, right? He should not be complacent or very happy because a defeated general is giving him support, and he should not tell everybody that even BUSH supports them. If OBAMA indicates support for him, he can still be hopeful; how can he be in luck when BUSH supported him, right?

Recently, the Chief Executive might be very happy; when HU Jintao met with him in Peru, HU said that he fully supported Hong Kong. When he comes back, he may not keep a straight face as he did before, but we are going to keep a straight face. Talking about BUSH, during his eight years of office, there were lots of blunders, one of them are related to the motion debate today, that is, the unilateral withdrawal from the Kyoto Protocol, which is known to all. Nonetheless, all of us can see that the Republic Party to which he belonged lost in the general election; will the new government address the matter squarely? We are all deeply concerned.

The Democratic Party is in power once again, and this subject of a low carbon economy is taken seriously by the whole world, which reflects that times and trends are changing though the SAR Government is not changing. Years ago, the United States Government withdrew from the Protocol in a high profile, and the whole world reviled it. The SAR Government is indifferent to the Protocol. As we all know, the People's Republic of China (PRC) is a contracting

state to the Kyoto Protocol and it signed the Protocol in the year 2000. Yet, it is a developing country and, due to its status, it is not bound by the Protocol, and it is not required to control greenhouse gas emissions. Hong Kong is a special administrative region of the PRC, but Hong Kong is a developed economy rather than a developing economy and we have not taken up any responsibility; in connection with controlling greenhouse gas emissions, we have not assumed any responsibility, which is really unbearable.

In fact, I still have lots of things to say but I would like to praise Mr KAM Nai-wai first, though he is not present now; at least, his amendment includes a timetable and a roadmap He is present? I thought he was not. Mr KAM Nai-wai's amendment proposes raising by 2012 the Air Quality Objectives to the standards adopted by the European Union, and implementing by 2015 the standards prescribed by the World Health Organization. His amendment includes a timetable and a roadmap, better than the SAR Government's proposal on universal suffrage, right? Therefore, we will support Mr KAM Nai-wai's amendment and we will also support Ms Audrey EU's motion.

In addition, friends from Greenpeace have asked me to this is not a gift for the Secretary but I only want to show him the daily amount of gas we inhale. He is once again bringing disaster upon our next generation. Hence, I hope that the Secretary will talk about a public consultation (*The buzzer sounded*) he really needs to put words into action there should not be words without action. Thank you, President.

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

MR ALAN LEONG (in Cantonese): President, Achim STEINER, Executive Director of the United Nations Environment Programme pointed out earlier, "The 20th century economy, now in such crisis, was driven by financial capital. The 21st century one is going to have to be based on developing the world's natural capital to provide the lasting jobs and wealth that are needed, particularly for the poorest people on the planet. There is an enormous opportunity to ride on this increasing global demand for environmental improvement and turn it into the driver of economic growth, job creation and poverty reduction that is now so desperately needed."

President, all along the Government's approach has been to address economic issues first and to address environmental protection issues only when there is spare money. This accounts for the lack of progress in the green industry in Hong Kong. Mr STEINER's suggestion is to integrate work in improving the environment with economic development and enable the green industry to become the driver of the new "green economy" of the 21st century. Governments all over the world are striving to promote growth in the green economy in the hope that a way to work out an economic revival can be found in the midst of the financial tsunami. Hence "green economy" is becoming the hottest theory in economic development. But the same old tune is played after the first meeting of the Task Force on Economic Challenges headed by the Chief Executive. It proposed only that more support should be given to the four major industries of financial services, trade and logistics, tourism and consumption, and real estate and construction. The mindset of the SAR Government seems to be a bit out of touch with the times.

President, green economy is in fact no complicated policy at all and we may even start to practise it in our daily life. A simple thing like a compact fluorescent light bulb can play a part in contributing to the development of green economy. A report compiled by Greenpeace last year shows that tungsten light bulbs waste a lot of energy. Only 5% of the electricity it uses is turned into light energy. The rest 95% is turned into heat energy which is not put to any use. The amount of power and energy consumption of a tungsten light bulb leads to CO₂ emission which is five times more than a compact fluorescent light bulb. Most of the tungsten light bulbs for ordinary lighting purposes are gradually being replaced by compact fluorescent light bulbs. It is even an international trend to legislate to phase out tungsten light bulbs. The advantages of that are to enable the public to save on power tariffs and also to arrest global warming.

President, in Australia, for example, the federal government announced in February last year that tungsten light bulbs would be phased out in three years. This would result in a reduction of CO₂ emission in Australia by an average of 4 million tonnes each year before 2015. The federal government of Canada passed a law on energy efficiency last year and energy efficiency standards for illumination were laid down. The Canadian Government is also determined to phase out tungsten light bulbs by 2012. According to official estimates, the amount of greenhouse gas emission in Canada will be reduced by 6 million tonnes a year as a result. And every household can save 50 Canadian dollars on

average. In the United States, Philips and a number of green groups announced in March that plans are made to phase out tungsten light bulbs by 2016. If this can be done, President, CO₂ emissions will be reduced by 160 million tonnes a year and savings in power tariffs will amount to US\$18 billion a year.

According to a survey done by Greenpeace and its projections, assuming about 40% of the households still use tungsten light bulbs, and there are 4.5 such kind of light bulbs in every household, there are about 4.2 million such tungsten light bulbs in Hong Kong. If all these tungsten light bulbs are changed into compact fluorescent light bulbs, then as many as 480 000 tonnes of CO₂ emissions can be reduced and \$600 million in power tariffs will be saved.

President, the Housing Authority introduced a pilot scheme on energy saving in Ho Man Tin Estate at the beginning of 2007. Initially, results show that the trial measures can save 11% of the power consumed in the public areas of buildings. But the target set by the Authority for the year 2008-2009 is only to extend the energy-saving scheme to 10 other housing estates. I wish to ask, since the pilot scheme in Ho Man Tin Estate has proven to be successful, why can the Government not extend the energy-saving scheme to cover all the public areas and even all the tenants of the public housing estates?

The Civic Party thinks that the Government should allocate funds to fully subsidize and assist public rental housing tenants in replacing all light bulbs with the compact fluorescent kind. If it is said that the subsidy of \$3,600 in power tariffs offered by the Government to the public is a kind of policy to hand out candies, then to subsidize the tenants of public housing estates to replace their light bulbs with compact fluorescent light bulbs can be seen as handing out vitamin pills. It is because the sum of \$3,600 will be used up someday, but all the tenants who get this subsidy to switch to compact fluorescent light bulbs can save on their power tariffs forever. They can enjoy sustainable and long-term economic benefits. The Civic Party believes that this form of handing out money can win more support from the public and it is of course greener. In addition, to introduce an energy-saving scheme in the public areas of all the public housing estates will need a lot of manpower in changing the lighting systems, hence more short-term and low-skilled jobs can be created. From this it can be seen that this simple task of replacing light bulbs can make the people save on their electricity bills, reduce the emission of CO₂ in society and create job opportunities. Thus a three-win situation can be achieved.

President, there are many facets in a green economy. They may include the recycling industry, energy-saving plans, greening in the communities, and so on. What I have proposed is only a small part of it. Thank you, President.

MISS TANYA CHAN (in Cantonese): President, many colleagues have talked about green economy earlier on. I also wish to talk about how green economy can be integrated into our living.

A few months ago when we talked about "炭" (meaning carbon or charcoal), it could be misunderstood as "嘆"^{Note} (meaning to gasp or an exclamation) as in "嘆世界" (having a very enjoyable time). But recently, when "炭" is mentioned, perhaps nobody would wish to talk about it anymore.

Indeed, a low carbon economy is closely related to our living. What we have heard earlier may just be a plethora of discussions and statistics. I was thinking: How can we integrate the concept of low carbon economy into concrete economic activities or daily lives? Having given some thoughts to this question, I found that a low carbon economy, to which I am a total stranger, is very easy to achieve.

I think the essence of a low carbon economy lies in two points: First, energy conservation; second, promotion of greening. Energy conservation can reduce the consumption of fuels and hence reduce the emission of carbon dioxide (CO₂). Greening can provide us with more green plants which can absorb CO₂ and release oxygen. If these two points can be integrated into our daily lives, a low carbon economy will no longer be just empty talk; nor will it be just academic terminology, but something that we can truly practise in our living.

President, town planning is the first step taken to decide what economic activities a place will have and so, a place must be developed as a low carbon area in order to provide a solid starting point for the development of a low carbon economy. Let us use the West Kowloon Cultural District (WKCD), which is now the focus of attention in the entire territory, as an example to explain how the concept of a low carbon economy can be applied in the course of planning and building design.

^{Note} "炭" and "嘆" are homonyms in Cantonese.

To achieve energy conservation, the first step is to reduce the flow of vehicles in an area. In order to develop the WKCD into a low carbon development area, the first thing to do is to restrict the number of vehicles entering the district. People can enter the district on foot or by bicycle, and we may even develop a small-scale railway system linking up all different parts of the WKCD. This will also allow the provision of more open space for public enjoyment or performance by arts groups, thus truly making the WKCD a place of cultural literacy. To this end, during the planning of the WKCD it is indeed necessary to provide more space for building pedestrian walkways or cycle tracks, or space has to be earmarked for developing a small-scale railway. That would certainly be the best, for it could achieve better value for money.

Reducing the number of inbound vehicles aside, reducing electricity consumption is also essential to a low carbon economy. Buildings in the WKCD must be designed with energy-efficient facilities. For example, buildings in the district can be designed with devices using natural light to reduce the reliance on electric lighting. In fact, I was once sitting in the Chamber of the Legislative Council and as sunlight came in through the windows, the feeling that I had was both solemn and warm. That was the first time I had this feeling in the Chamber. I think if we can properly make use of natural light, the public could have a different experience.

As for the façades of buildings, materials capable of reflecting solar heat can be used, so as to reduce the need for air-conditioning facilities inside the buildings. Solar energy-driven power generating devices can also be installed on the rooftop of each building to reduce the reliance on electricity, or rooftop greening can be promoted to reduce heat gain. These can reduce the emission of CO₂ from the burning of fossil fuels in the course of power generation.

Moreover, Hong Kong is still called a "concrete jungle". The territory is closely-packed with skyscrapers, and the number of "screen-like buildings" has been increasing. These deficiencies in planning have taken a toll on the ventilation of buildings, which may also create the heat island effect. As a result, people inside the buildings are forced to turn on the air-conditioners to the maximum capacity. Would this not lead to an even greater consumption of electricity? Such planning is absolutely not in line with the principle of a low carbon economy. Therefore, when studying the planning of a low carbon economy, emphasis must be put on pre-empting the wall effect and heat island effect, or ensuring better ventilation.

President, while energy conservation is certainly part and parcel of a low carbon economy, greening measures seem to be neglected in many motions and amendments. In fact, any energy conservation measure can only slow down the increase rate of CO₂, and only trees can truly reduce the CO₂ content in the air. Therefore, greening features are also vitally important to a low carbon economy.

Trees are tantamount to the lung of a place, bringing clean and fresh air to the people. The good functioning of the lung is the prerequisite for maintaining a good state of health. The same applies to our community. To ensure the good functioning of the lung of a community, more trees of a great variety must be planted by all means, so as to effectively reduce CO₂ and truly achieve a low carbon environment.

In this connection, with regard to all development projects, whether it be Hopewell Centre II or the WKCD, we must urge the Government to enhance greening features in the course of planning and design, so that more open space can be designated, and we all the more hope that trees will be extensively planted in the open space for public enjoyment and to serve as the city lung, so that progress can be achieved both in the economy and public health. I used the WKCD as an example to point out that a low carbon economy can be achieved only with proper planning.

I hope that this "low carbon" planning concept can be applied to any major development project in future, including the new Kai Tak area or the reclamation area in Central and Wan Chai, or even the urban renewal project in Kwun Tong, or the new development areas in the New Territories. I hope that this concept can be applied to enhance greening work, with a view to reducing energy consumption.

President, Members who have watched the television recently may have seen a programme about global warming and in this programme we could see that CO₂ has become the chief culprit of global warming, causing the Arctic ice to melt and the water level to rise continuously. Hong Kong people used to joke that Hong Kong might submerge into the sea and we all thought that it was a joke then but now, this could be true. Recently, as Members may have learnt from news reports, serious floods occurred in Tai O recently on several occasions when the territory was hit by a typhoon. We can imagine that this may also happen in Hong Kong later. What we must do now is to achieve a low carbon economy as

soon as possible. We hope that this will not only stimulate the economy, but also create a better living environment for our children and even the children of our children.

I so submit. Thank you, President.

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

DR RAYMOND HO: Mr President, climate change is an undeniable fact that is threatening our environment. Its effects are felt globally, be it melting ice caps, extreme weather patterns or deteriorating air quality. We must take appropriate actions in the hope of battling these effects and preserving our environment.

As a participating city of the C40 Cities, Hong Kong is shouldering heavy responsibilities. The Chief Executive has pledged in his policy address recently to combat the causes and effects of climate change. Hong Kong is a service-based economy and we are heavily dependent on electricity. Electricity generation is a significant contributor to our greenhouse gas emission.

While we value the importance of corporate responsibilities, in view of the current state of the global economy, it is necessary for the Government to provide incentives to the private sector on making further contributions in emission-reduction facilities in research and development of cost-efficient and renewable energy source.

As the Pulitzer Prize-winning columnist Thomas FRIEDMAN puts it, a low carbon economy could be the solution to the current financial crisis. With a tightening budget, everyone is looking to cut costs in his or her daily livings and businesses. The Government should lead by example and lay out a concrete roadmap to accomplishing the goals of energy conservation and emission reduction. One example is the Building Energy Code, which is a very important document that will serve as guidelines on energy saving. It is the right time for the Government to move ahead to legislate on its mandatory compliance to improve energy efficiency in new and existing buildings.

Mr President, to this, I so submit. Thank you.

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

(No other Member indicated a wish to speak)

PRESIDENT (in Cantonese): Ms Audrey EU, you may now speak on the amendments. You may speak up to five minutes.

MS AUDREY EU (in Cantonese): President, I thank the several colleagues for proposing their amendments, which enriched my original motion. This topic of a green economy or a low carbon economy is in fact very wide-ranging, so many Honourable colleagues have touched on various areas, from planning or very specific issues (such as replacing tungsten light bulbs with environmentally-friendly light bulbs) to all the areas mentioned in the amendments. In fact, they are all part of a green economy or low carbon economy.

The amendment proposed by Mr KAM Nai-wai adds many details that are in line with the development of a low-carbon economy. For example, the installation of solar power facilities and encouraging private developers to use such facilities are related to the issue of grid access mentioned by me just now. The Democratic Party also proposes the construction of green roofs, whereas Mr CHAN Kam-lam adds greening and the installation of solar power facilities to Mr KAM Nai-wai's amendment. They are all compatible with low carbon economy.

In addition, measures such as encouraging purchase of electricity between the power companies are also in line with my proposal to develop environmental finance.

Concerning a timetable, Mr KAM Nai-wai adds the year of implementation in his amendment. I think the Secretary will say in his reply that it will be difficult to achieve the targets, that it will be difficult to attain the standards adopted by the European Union by 2012 or to implement the standards prescribed by the World Health Organization before 2015.

However, President, as I mentioned in my speech just now, an academic of the University of Hong Kong has pointed out that we in Hong Kong, which is a

developed city, has to be more aggressive if we want to reduce CO₂ emissions and meet targets, so as to meet global standards and attain sustainable development. Therefore, I am absolutely in favour of a more aggressive timetable.

President, the only thing in Mr KAM Nai-wai's amendment about which I have some reservation is item (h) of his amendment concerning the introduction of low emission zones. President, in principle, I do not oppose "low emission zones" but I wonder if this would mean that the emissions would be transferred to other locations, that is, the symptoms will be treated without solving the problem. If a low emission zone is established in Central but the emissions in Wan Chai increase as a result, no improvement will be made to the overall level of emission. Therefore, if "low emission zones" will lead to a deterioration of air quality in other areas, I will not lend it my support.

However, President, in the past, I have already explained the practice of the Civic Party a number of times. Often, we may have some reservation about certain areas. Nevertheless, we will support the overall direction after explaining the reasons for our reservation. We will not abstain or oppose something when voting on account of some minor issues. We want to enable the passage of the motion proposed on each occasion and hope that Honourable colleagues can reach a consensus.

As regards Mr CHAN Hak-kan's amendment, President, I believe it is also highly consistent with the aim of my original motion, particularly his proposal on collaborating with the neighbouring regions in setting up a trading platform for carbon trading. I was very pleased to hear Mr CHAN Hak-kan say in his speech that what he meant by carbon trading was cap and trade, that is, the total quantity has to be established before trading. I hope he will not back away from his position like the Hong Kong Government or the President of the United States, George BUSH, who claimed that what they meant was energy intensity or energy efficiency. I heard him say clearly that he supported a cap and trade approach on the total emissions.

President, he also proposed that carbon emissions be set out in the electricity bills of customers, so that every member of the public will know how much carbon emission he has created. I believe this is a very important component in civic education. In view of this, President, generally speaking, the Civic Party supports all the amendments.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President and Members, as I said in my speech at the beginning, we are very grateful to Members for proposing this motion today and we also welcome it. Personally, I attach great importance to this motion debate because this issue is one of the key areas both in this year's policy address and in the work of the Environment Bureau. In this year's policy address (be it in the policy agenda, the policy address or even in the allocation of resources), we have received tremendous support from the Chief Executive. Therefore, this is an extremely important aspect in the future work of the Environment Bureau.

Some Members, including Mr WONG Yuk-man, know that I prefer to draft my own speech as far as possible. Therefore, this morning, I felt that this motion debate was an excellent opportunity for us to explain to the public through the Legislative Council the work being done by the Government under the strategy of a low carbon economy. It is a shame that this process may have obliged my colleagues who are attending this meeting together with me to skip their lunch. However, on seeing the group representations we received on arrival at the Legislative Council, coupled with the speeches lasting almost three hours that we have listened to in this Chamber, I found that our time was not wasted because, as I said earlier on, I would listen attentively to the views and issues raised by Members.

In fact, I think the majority of Members expressed support for the Government in their speeches, or they agreed with the approaches, objectives and even the details relating to a low carbon economy proposed by us in the two policy addresses. Although some Members are skeptical of the initiatives proposed by us, even as many Members expressed their doubt, I found that many of the suggestions and views voiced by them have in fact been covered in our policy agenda. Moreover, there are already plans for their implementation.

Therefore, I believe that be it the public and the green groups outside the legislature or Members in the Chamber, all of us would rather have a sense of not being able to make the mark than lacking enthusiasm when implementing policies or introducing bills. I hope that this sense of urgency can be translated into support from Members for the bills or policies introduced by us in the coming year.

I also fully agree with many Members' comment that nowadays, the environmental problems facing Hong Kong cannot be solved simply through

empty talk or a slogan, still less by simply wearing a green tie or a matching jacket or handing out a mask. We know that the public demand that the Government assumes responsibility by introducing feasible and effective measures in earnest and making actual efforts to find ways to counter the problem of climate change as a member of the globe.

Here, allow me to spend more time on this reply. My speaking notes today are thicker than usual because in their speeches, some Members have commented extensively on the work in a number of areas, so I wish to give as detailed an explanation as possible if the President so permits.

I think that a general survey of Members' views will reveal several points that are causes for celebration and encouragement:

First, on the overall policy objective of a low carbon economy, I think that basically, all Members who have spoken agree that it is imperative for Hong Kong to establish a low carbon economy. Moreover, they also agree that this policy objective is reasonable and in line with the development needs of Hong Kong. It is also conducive to sustainable development, enhancing the competitiveness of the Hong Kong economy as well as improving the living of the people. Members all concurred with and affirmed such a direction in their speeches. This is also the view of the Government. Hong Kong, as a developed city, world city and a member of the global village, has the responsibility to reduce emissions for the sake of our own interests and the well-being of the whole world, as well as contributing its effort towards coping with climate change.

Second, regarding the strategy, as I said just now, we can no longer engage in empty talk and must take actual measures. To reduce emissions, conserve energy and enhance energy efficiency is definitely an effective objective suitable for Hong Kong's development. If it is necessary to prove that this objective can effectively address this problem, two figures that I cite frequently can illustrate this point clearly: The first is that 62% of the total carbon emissions in Hong Kong originates from local electricity generation, and the second is that 89% of the electricity is used on buildings.

In view of this, in order to effectively manage or reduce our carbon footprint, that is, if we do not want to leave too big a carbon emission footprint in our lives or in the course of development, it is necessary to move in the direction

of using clean energy for power generation and enhance building energy efficiency, as pointed out by many Members.

On the use of clean energy, in the past year, Members have perhaps seen the determination, efforts and specific proposals of the Government clearly. Members can see that last year, through the addition of new clauses to the new Scheme of Control Agreements (SCAs) concluded with the two power companies, apart from financial clauses, that is, the downward adjustments in their permitted returns, an incentive and penalty mechanism, that is, the carrot and stick mechanism mentioned by Dr Priscilla LEUNG just now, has also been introduced for the first time. There are few places where an incentive and penalty mechanism has been introduced and adopted in managing power development to help reduce emissions by power companies.

The last Legislative Council assisted us in amending the Air Pollution Control Ordinance. This Legislative Council will proceed to deal with the Technical Memorandum, which stipulates the maximum emissions for individual power plants of the two power companies and strictly monitors the emissions of the two power companies through the exercise of statutory powers.

In order to switch to cleaner fuels gradually, the Government is trying to achieve this end not just through the SCAs that I mentioned just now, it also helps the power companies identify clean energy. As mentioned by Members in their speeches, at the end of August, we signed the Memorandum of Understanding on clean energy with the Central Authorities to ensure that in the coming two decades, clean energy, including nuclear energy and natural gas, are available to the two companies, so as to reduce air pollution and the emissions of carbon dioxide (CO₂).

On another front, if we want to target energy efficiency in Hong Kong, as evident in the figure cited by me just now, enhancing the energy efficiency of buildings is obviously an effective approach. If less energy can be used on buildings, be they public housing estates, commercial buildings or residential buildings and even public areas, or if their energy efficiency can be enhanced, not only will this benefit individuals, families and companies, this will also reduce our carbon emissions actually. As I said at the beginning of my speech, last year, in this legislature and in public consultations, we successfully secured the endorsement to introduce a bill to expedite the mandatory implementation of the Building Energy Codes.

Apart from such a bill, we also proposed in the policy address the allocation of quite a large sum of money (a total of \$450 million for two items) to encourage all members of the public and all buildings to participate in a carbon audit campaign and carry out improvement works. This is totally in line with the comments made by a number of Members just now. I hope that the work in this regard can commence next year.

After the Government has formulated its strategies and goals, in fact, there are three main points concerning the approach that I wish to share with Members. I found that Members also mentioned and agreed with them in their speeches. First, the Government must take the lead in investing in or showing commitment to infrastructure projects; second, sometimes, it is necessary for the Government to impose regulation through legislation or by setting a basic standard and third, it is necessary to engage the public or companies. We must proceed on all these three fronts.

I wish to take this opportunity to use an actual example to illustrate to Members the nature of our effort and why we believe it will not just be empty talk, as Members are apprehensive of. For one thing, in the past two years, when the Government made investments in public works, and even in last year's policy address, apart from the 10 major infrastructure projects, among all Policy Bureaux, perhaps the greatest amount of additional resources are allocated to the Environment Bureau.

When talking about actual investments, let me give an example. Implementing a district cooling system for the new development area in Kai Tak can reduce electricity tariffs by 20% to 35% when compared with individual air-conditioning systems for buildings. The reduction in carbon emission can be as much as 60 000 tonnes per year. In the future, we will draw on the experience gained from the new development area in Kai Tak and continue with this kind of work in other new districts if the same benefits can be obtained.

Another example is that a number of important environmental protection facilities to be built by the Government in the next few years, including the sludge plant and incineration facilities, can all turn waste into energy. Just now, Members also talked about how waste treatment could be turned into an energy production process. These two facilities can provide alternative sources of energy equivalent to the electricity used by about 100 000 households. It will also be possible to reduce carbon emission by about 460 000 tonnes each year.

It is necessary for us to enact legislation to establish a minimum and effective standard to enhance the energy efficiency of society as a whole. As I said just now, after fully implementing the legislation on mandatory Building Energy Codes, not only will it be possible to set a minimum standard for new buildings and existing buildings, it will also be possible to conserve energy. We estimate that through this measure, it will be possible to reduce carbon emission by 2 million tonnes in the first decade.

The measures relating to building energy efficiency already covers the lighting, lifts, air-conditioning and common electrical installations in buildings, which were mentioned by a number of Members just now. It will be possible to set the minimum standards for such facilities through this piece of new legislation, so I hope we will have Members' support after the bill is tabled.

Another example is the Energy Labelling Scheme endorsed by the Legislative Council last year. This year, we will go on to extend it to other products. On the replacement of tungsten light bulbs mentioned just now by Members, including Mr Alan LEONG, in fact, we and other developed cities in the world all share the same thinking and we will work in this direction.

However, no matter through legislation or the commitment of resources by the Government, we will not achieve very good results if the public are not engaged. For this reason, the allocation of \$450 million proposed in the policy address this year is aimed at enabling users of buildings (including residential tenants as well as industrial and commercial enterprises) to take part in energy audit through financial incentives, direct subsidy or matching funds, so as to make them understand how much room there is in reducing the energy consumption of their buildings.

In the new SCAs of the two power companies, we also require these two companies to allocate \$180 million as loans for their customers to undertake similar energy efficiency projects. Therefore, apart from the Government, the two power companies also have to undertake such work. In the new SCAs, we allow the power companies to get a higher permitted return (11%), with a view to encouraging them to introduce, apply and develop renewable energy.

The above measures show that the Government is intent on promoting a low carbon economy and has proposed effective measures to encourage the participation of all members of the public and companies. Of course, the

support of the Legislative Council in the future is also indispensable, but we are sure that these projects will help consolidate some of the conditions for Hong Kong to become an energy-efficient city.

Some people may ask what the situation of carbon emissions in Hong Kong is presently. Allow me to cite some figures for Members' reference. According to the information of the Asia-Pacific Economic Cooperation (APEC), Hong Kong's per capita electricity consumption is about one fifth to 60% lower compared to other advanced economies in the region. Hong Kong's total greenhouse gas emission was 45 million tonnes in 2006, accounting for 0.1% of the global total emission.

In recent years, the per capita carbon emission in Hong Kong was about 6.6 tonnes, which was lower than those of Singapore, Japan, the United Kingdom, the United States and Australia. This figure of 6.6 tonnes is similar to or lower than those of other cities.

Of course, from the viewpoint of many economic or environmental experts, the ideal level of per capita carbon emission is about 2 tonnes for all the people in the world. However, compared with some countries in Europe and America, such as the United States (24 tonnes), Australia (28 tonnes), Japan (10 tonnes) and Singapore (9 tonnes), that of Hong Kong is in fact at the lower end. According to the information of the United Nations, the carbon emissions for each unit of GDP in Hong Kong, based on purchasing-power-parity, is 44% to 67% lower than the foregoing countries.

In spite of all this, in citing these figures, I do not mean that we are already doing a great job. Rather, no matter how great a job we are doing now, there is still a lot of work to do. For this reason, I have purposely cited the comment of some experts. From a global perspective, the ideal per capita carbon emission has to fall back to about 2 tonnes. Of course, this task will require joint efforts and sacrifices by all of us.

President, since several Members have raised various issues regarding this motion, allow me to give some responses.

Some Members said that reference should be made to overseas examples when studying and formulating strategies and measures on climate change. We fully agree with this and have actually done so. Not only have we made

reference to overseas examples, in fact, we have also taken part in international efforts. Apart from participating in the work of the APEC, as I mentioned just now, and our compliance with the standards jointly formulated by its members, we also joined the C40 Cities Climate Leadership Group in October last year, in the hope that through mutual communication with the governments of the other C40 members (including such cities as London, Tokyo, New York, Beijing, Shanghai and Sydney), there can be exchanges in relevant experience. We believe that Hong Kong, as a world city, must fulfil its responsibility in this area and learn from other people.

In fact, international co-operation and exchanges are helpful to our joint efforts in coping with climate change. Recently, when I visited other places, I also made a point of verifying or comparing the measures adopted. For example, in the next few years, we will build a district cooling system, a sludge treatment facility, an integrated waste management facility, and so on, which can also be found in other places. However, the facilities to be built in Hong Kong in the future will perhaps be larger in scale and of a higher standard. In fact, we can draw on other people's experience and learn from them when building these waste-to-energy facilities.

For example, some countries or cities offer loans to encourage the installation of energy-saving devices, as in the case of London. At present, we hope that two different approaches, namely, match funding and direct funding, can be adopted in Hong Kong. In future, we can verify and compare which approach is more effective.

In his amendment, Mr KAM Nai-wai proposes the establishment of a data bank on the energy efficiency of vehicles. In fact, since 1997, the Electrical and Mechanical Services Department (EMSD) has been keeping tabs on energy consumption in the transport sector with the compilation of the Hong Kong Energy End-use Data. The data bank is updated annually to enable the public to understand the situation. Furthermore, the EMSD has also developed a benchmarking software for the public to compare the energy consumption of their vehicles with the average energy consumption of similar vehicles, so as to draw up energy consumption targets and measures for reducing energy consumption.

I agree very much with the view expressed by Members when talking about a low carbon economy, that we must encourage the public to conserve energy

through financial incentives as far as possible. In this regard, apart from the allocation of \$450 million to provide subsidies for carbon audits and improvement projects, at present, other financial measures are also designed to achieve such an end, including encouraging property owners to install facilities to generate renewable energy, such as solar power, under the existing tax regime. From the 2008-2009 year of assessment onwards, renewable energy installations and installations registered under the Hong Kong Energy Efficiency Registration Scheme for Buildings administered by the EMSD are entitled to tax concessions. In addition, as pointed out by many Members, financial assistance schemes are available to public housing estates and from several housing organizations. They include the Building Management and Maintenance Scheme of the Hong Kong Housing Society, the Comprehensive Building Safety Improvement Loan Scheme and the Building Maintenance Grant Scheme for Elderly Owners of the Buildings Department. Financial assistance for energy installations are also available under these schemes.

A Member talked about the situation regarding grid access. When the new SCAs were signed early this year, I promised that we would proceed to prepare for the liberalization of the electricity market, including the formulation of a new market mechanism and the associated regulatory framework, in the next regulatory period, that is, from 2008 to 2018. Of course, the liberalization of the electricity market involves a lot of regulatory and legal issues requiring careful deliberation.

If we enable users and power companies to reach agreements to encourage them to use renewable energy through grid connection, I believe such an opinion or proposal is reasonable. Under the new SCAs, the two power companies have already formulated a standardized grid connection arrangement for back-up power supply for customers with embedded renewables in Hong Kong. The two power companies will promote this arrangement and further encourage their customers to use renewable energy. As regards the proposal in Mr KAM Nai-wai's amendment to allow electricity trading between users and power companies, under the existing SCAs, the two power companies can hold discussions, on a case-by-case basis, when there is, say, spill power from embedded renewables. Of course, the installations concerned must comply with the requirements of the relevant legislation.

Mr CHAN Hak-kan expressed the hope that discussions can be held with the power companies on the inclusion of the carbon emissions of their customers

in electricity bills, so as to assist their customers in conducting carbon audit. Although it seems that Dr Priscilla LEUNG does not agree with this, I think this is a constructive proposal. Although we may not be able to impose such a requirement on the power companies unilaterally, I think it is worthwhile to convey this proposal to the power companies because, just like many other companies, the two power companies have participated in the "Green Hong Kong: Carbon Audit". I believe this proposal is in line with the direction of the work being undertaken by us.

Some Members mentioned the use of renewable energy as a measure to counter climate change. The views of the Government and Members are consistent in this regard. In fact, as I said just now, in the SCAs reached between the Government and the two power companies, financial incentives have been offered to the two power companies to encourage them to use, introduce or develop renewable energy. However, due to the geography of Hong Kong, it may not be very cost-effective to use some forms of renewable energy, such as wind and solar energy, on a large scale. However, we will also discuss with Guangdong how best co-operation between the two places can be promoted, so as to further the development and use of renewable energy in both places.

Even though it may not be possible to use renewable energy on a large scale in Hong Kong due to its geography, the two power companies have formulated plans for wind power generation. Apart from the construction of a wind turbine on a trial basis on Lamma Island, the two power companies also plan to explore power generation on a commercial scale. In addition, I think it is worthwhile to share with Members the fact that the Hong Kong and China Gas Company Limited also has entered into an agreement with the Government on using the methane from one of our landfills to produce town gas. This is also an example of using renewable energy. In the future, if we use new technology to generate electricity through waste incineration, this will also be a project using renewable energy in Hong Kong.

As regards Mr KAM Nai-wai's proposal of installing solar power facilities on the roofs of public facilities, in fact, we have already put in place arrangements to require the use of renewable energy technology in new works projects and installations. Just now, several Members, in particular, those who are members of the Housing Authority, also mentioned that there are now plans to install photovoltaic panels in some housing estates, including on the roofs of three

residential blocks in phases 7 and 8 of the redeveloped Lam Tin Estate and on some of the covered pedestrian walkways. It is expected that they will be commissioned in 2009. In addition, the Authority will also install an electricity generation system using photovoltaic panels in phase 5, which is located next to the Eastern Harbour Crossing. It is expected that this system can be commissioned in 2010. I also agree with Members that if this kind of installations or this policy is extended to other housing estates, the Authority and the Government will both be pleased to continue to make efforts of promotion.

In the past two years, rooftop greening and vertical greening are projects that have received strong financial support from the Environment and Conservation Fund, which has been given a capital injection. We can see that last year, many schools and voluntary organizations were moving in this direction and given funds to carry out greening.

On encouraging private developers to install renewable energy installations, the Government launched the "Hong Kong RE Net" last year to introduce various kinds of renewable energy technologies to the public, including their approaches, the technical outlines, application considerations, and so on. Information on applicable technologies and successful cases, as well as the list of suppliers, has been uploaded onto the website, in the hope that society as a whole can make good use of such newly developed services.

Many Members pointed out that regional co-operation was very important for such efforts. Members will also remember that in the policy address and in the past year, we have stressed co-operation with Guangdong in boosting the development of renewable energy and improving the environment. In the policy address, the Chief Executive proposed transforming the greater Pearl River Delta Region into a green and quality living area together with the Guangdong Provincial Government. This concept covers the issue of concern to Members, that is, how to continue to set new targets subsequent to the emissions reduction targets for 2010. However, the new discussion and co-operation will not be confined to the air alone. They will also cover ways of developing clean energy, enhancing energy mix and even co-operation in such areas as cyclic economy. We will discuss this topic thoroughly under the liaison mechanism between Hong Kong and Guangdong and brief Members on the deliberations or the results in due course.

Mr CHAN Hak-kan proposed that the Government actively set up a mechanism for cross-border carbon trading and many Members also said that in fact, Hong Kong can become a place for carbon trading because Hong Kong is already a financial centre. Actually, on 6 June this year, the Government already announced the Arrangements for the Implementation of Clean Development Mechanism Projects in the Hong Kong Special Administrative Region (the Implementation Arrangements). The Implementation Arrangements aim to enable Hong Kong companies to collaborate with foreign organizations in conducting Clean Development Mechanism projects in Hong Kong in accordance with the specific measures spelt out in the United Nations Framework Convention on Climate Change. On the one hand, these projects will help reduce Hong Kong's greenhouse gas emissions further, and on the other, by selling the emission reductions generated by the relevant projects, developed nations can be assisted in achieving their reduction targets. Moreover, I am also pleased to see that the Hong Kong Exchanges and Clearing Limited has indicated clearly that it will study the possibility of developing a carbon trading market. We believe that at the same time when the policies and civil society in Hong Kong promote a low carbon economy, if a carbon trading market is put in place, the development in these two areas can offer complementary advantages.

A Member proposes the establishment of low emission zones to reduce vehicle emissions and help reduce pollution. We fully understand and agree with this. We have already implemented the first registration tax concession scheme and other measures for some time in the past and encouraged the public to switch to environment-friendly vehicles as far as possible.

Since April 2007, through a reduction of 30% (subject to a maximum of \$50,000 per car) on the first registration tax, the Government has been encouraging the public to opt for environmentally-friendly private cars. At present, in the local market, over 20 environmentally-friendly petrol private car models are available and the number has increased by 50% compared with that at the launch of the scheme. As at the end of October 2008, we have received about 6 400 applications, of which 6 300 have been approved, accounting for about 11% of all newly registered private vehicles.

Concerning the "low emission zones" raised by Mr KAM Nai-wai, the Under Secretary for the Environment has also responded to this proposal in the meeting before the previous one. We are now having discussions with the

Transport Department and franchised bus companies on the establishment of "low emission zones".

On reducing emissions from transport, in fact, all of us understand that attention must also be paid to this area. Apart from energy consumption, we can see that the next major source of pollution in terms of carbon emissions is transport. Members will perhaps recall that two days ago (that is, on Monday), in a meeting of the Panel on Environmental Affairs, a paper was tabled to explore whether in the future, higher annual licence fees on older vehicles (in particular, vehicles that have been in use for over a decade) should be levied at the same time as the financial incentive scheme for pre-Euro vehicles is extended.

Unfortunately, we found that apparently, Members did not support the relevant proposals too eagerly. However, I hope Members will understand that even as we consider financial incentives, in the long run, it may also be necessary to consider other approaches. We understand that carrots are certainly tasty, but on the overall measures, we cannot rely solely on financial incentives.

A Member suggested that the Government should explore imposing regulation on the CO₂ emissions of local thermal power plants, so as to restrict their greenhouse gas emissions. When the Legislative Council scrutinized the Air Pollution Control (Amendment) Bill 2008 early this year, the Government already gave a clear account of this to the Legislative Council and it was accepted by the legislature. Here, I wish to reiterate, at the risk of being repetitive, that we have to consider some actual technical and feasibility issues because at present, there is no mature and commercially viable technology in the world that could reduce, capture and store the greenhouse gas released by the burning of fossil fuels. For this reason, if we want to make efforts in this regard, it is necessary to see if the technology permits us to do so.

In overseas countries, there are also proposals on using carbon capture to collect and store the CO₂ discharged by various industries. In recent months, while on overseas visits, I also paid special attention to the experience in this area. In view of the information that I have obtained, at present, most of these proposals are still at the research and test stage and cannot be applied extensively yet. For this reason, there is no basis for us to include CO₂ when regulating the emissions of thermal power plants. All of us are very concerned about controlling air pollution. For example, CO₂ is not included in the control lists of the standards of the World Health Organization (WHO) either.

In contrast, the proposals under the Government's present policy on energy are aimed precisely at reducing the CO₂ emissions from electricity generation. This includes increasing the proportion of clean energy (including natural gas) used, as we said just now, so that we can move from coal-fired electricity generation to cleaner energy. From the Memorandum of Understanding on energy that we signed in August to the measures taken recently, they are all aimed at gradually reducing the emissions from thermal or coal-fired power generation.

President, another topic raised by Members is the tightening of the existing Air Quality Objectives (AQO). In the debate on the motion and the amendments, many Members commented on how the Government should tighten the existing AQO. In this regard, the thinking and goal of the Government and the public are actually the same. I have also pointed out a number of times that the existing AQO in Hong Kong are a little behind the times because they were formulated almost two decades ago, so an update is necessary. For this reason, in the policy address, we propose clearly that the Air Quality Guidelines set by the WHO would be adopted as the blueprint when formulating new objectives for Hong Kong. It can thus be seen that the Government is resolved to put forward proposals in this regard.

Earlier in the debate, Mr LEUNG Kwok-hung cited three questions raised by various groups: Why the guidelines of the WHO were not adopted in Hong Kong, why was there no definite timetable and why were the WHO standards not adopted in full but had to be implemented in phases? In fact, when receiving a petition just now, I already gave a clear explanation to those groups. It is not true that the standards of the WHO will not be adopted in Hong Kong. The Chief Executive stated clearly in the policy address that we would adopt the WHO standards as the blueprint and public health as the basis. This is precisely the approach adopted by us in the policy address. However, even as we formulate a new set of AQO for Hong Kong, we cannot just talk about the standards. Instead, we also have to put forward a package of proposals, including various measures for various areas ranging from energy to transportation. In view of this, the present task of the Government is to set out the basis for discussing this package of proposals. We hope that various proposals concerning the AQO (including the timetable, effectiveness and costs) can be presented early next year for public discussion.

A Member asked whether the standards of the WHO were strict or stringent. I think the simplest way is to compare the existing AQO of Hong

Kong with the WHO guidelines. Take sulphur dioxide, which is our greatest headache, as an example. At present, the standard in Hong Kong is a maximum of 350 mg per cu m in 24 hours whereas the interim target of the WHO has been reduced to 125 mg per cu m, that is, one third of our existing standard. If the final guideline is to be adopted, the target to be attained is 20 mg per cu m, representing a reduction of over 90% from the existing standard. As regards suspended particulates (PM2.5), at present, we do not have any standard on this and the WHO standard in this regard is even more stringent. For this reason, this is not a matter of difficulty, but rather the approach that should be adopted when we undertake this task. Precisely because there is a gap between these two standards, the WHO also allows and suggests that various places formulate their own proposals and steps having regard to the actual situation. Therefore, we will adopt this approach by setting out various proposals, timetables and results for public discussion in the coming consultation.

President, in sum, I am grateful to Members for approving the Government's administrative blueprint based on the establishment of a low carbon economy founded on low energy consumption. We understand that this is not just a matter of a policy on the environment, but also a policy on development. We fully understand that the strategies and measures proposed by Members or by us must be practicable and effective and that through these measures, the public, companies and society as a whole must be encouraged to participate. We will also seize the present opportunities and I agree with the view voiced by some Members, that in times of economic uncertainty, it is all the more necessary to introduce the policies at an early date, as they can consolidate our fundamentals and fortify ourselves by helping companies reduce cost and enhance their cost-effectiveness. As the Chief Executive said in a meeting of the APEC the day before, we will not reduce our investment in environmental protection and we also hope that when implementing these measures, a win-win situation will be created. In other words, changes to the environment can be effected and the public can enjoy the benefits on the one hand, and it is also hoped that through such discussions, or even disagreements and debates, the concern of all members of the public over the issue of global warming can be aroused on the other.

President, I again thank various Members for the numerous suggestions they have made on this question. I hope that be it in the Panel on Environmental Affairs, the Panel on Economic Development and even in Council meetings, Members will continue to support us when we propose bills or policies.

Thank you.

PRESIDENT (in Cantonese): I now call upon Mr KAM Nai-wai to move his amendment to the motion.

MR KAM NAI-WAI (in Cantonese): President, I move that Ms Audrey EU's motion be amended.

Mr KAM Nai-wai moved the following amendment: (Translation)

"To delete ", as" after "That" and substitute with "the problem of global warming is aggravating,"; to add ", allowing electricity trading between users and power companies," after "grid connection"; to delete "and" after "community,"; to add "studying cooperating with Guangdong Province in developing wind farm projects to promote the use of renewable energy; (g) installing solar power facilities on the roofs of newly built public housing blocks and covered pedestrian walkways, and encouraging private developers to introduce related facilities; (h) implementing the promotion of the first stage of 'low emission zones' in Hong Kong in 2010; (i) setting up a data bank on energy efficiency of vehicles covering the data on greenhouse gas emissions; and (j)" after "(f)"; and to delete "and formulating an implementation timetable in this regard" immediately before the full stop and substitute with "raising them to the standards adopted by the European Union by 2012, and implementing the standards prescribed by the World Health Organization by 2015"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr KAM Nai-wai to Ms Audrey EU's motion, be passed.

PRESIDENT (in Cantonese): I now call upon Mr CHAN Kam-lam to move his amendment to Mr KAM Nai-wai's amendment.

MR CHAN KAM-LAM (in Cantonese): President, I move that Mr KAM Nai-wai's amendment be amended.

Mr CHAN Kam-lam moved the following amendment to Mr KAM Nai-wai's amendment: (Translation)

"To add "greening or" after "(g)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Kam-lam to Mr KAM Nai-wai's amendment, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): I now put the question to you and that is: That Mr KAM Nai-wai's amendment, as amended by Mr CHAN Kam-lam, to Ms Audrey EU's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by

functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr CHAN Hak-kan, as the amendments by Mr KAM Nai-wai and Mr CHAN Kam-lam have been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MR CHAN HAK-KAN (in Cantonese): President, I move that Ms Audrey EU's motion, as amended by and Mr KAM Nai-wai and Mr CHAN Kam-lam, be further amended by my revised amendment. There are two key points in my amendment. First, the amendments to the introduction of the motion are not retained and second, items (c), (d), (f) and (i) of the original amendment are retained. Thank you, President.

Mr CHAN Hak-kan moved the following further amendment to Ms Audrey EU's motion as amended by Mr KAM Nai-wai and Mr CHAN Kam-lam: (Translation)

"To add "; (k) considering bringing carbon dioxide emissions from local thermal power plants into the regulatory ambit; (l) actively collaborating with the neighbouring regions, including formulating agreements and relevant legislation, as well as setting up a trading platform to develop a mechanism for local and cross-border carbon trading; (m) discussing with power companies the inclusion of carbon emissions of users in their electricity bills, so as to assist users in conducting carbon audit; and (n) raising the current tax concession rates and caps under the first registration tax concession scheme for environment-friendly vehicles to provide additional incentive for the public to switch to environment-friendly vehicles" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Mr CHAN Hak-kan's amendment to Ms Audrey EU's motion, as amended by Mr KAM Nai-wai and Mr CHAN Kam-lam, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Ms Audrey EU, you may now reply and you have 45 seconds. This debate will come to a close after Ms Audrey EU has replied.

MS AUDREY EU (in Cantonese): President, the speech delivered by the Secretary lasted 37 minutes 30 seconds, but he did not respond to the core issue. The topics discussed today are a low carbon economy, the target of CO₂ emission reduction and the time for meeting this target. The Secretary did not respond to them. It is regrettable that he still maintains that in terms of the total quantity per capita, the CO₂ emission in Hong Kong is lower than that of other places and in terms of GDP unit, that of Hong Kong is also lower than those of other countries. This is playing the old tunes again.

We do not agree with the Secretary's remark that when discussing why CO₂ was not included in the scope of regulation, he had already given an explanation which was accepted by us. We did not accept it, only that we could not exceed the scope of the motion, so we had no choice but to accept it.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Ms Audrey EU, as amended by Mr KAM Nai-wai, Mr CHAN Kam-lam and Mr CHAN Hak-kan, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: Reforming financial regulators.

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

I now call upon Mr Ronny TONG to speak and move his motion.

REFORMING FINANCIAL REGULATORS

MR RONNY TONG (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, the financial systems all over the world are battered by the financial tsunami, and the financial regulatory regime of Hong Kong is also subject to queries in the wake of the incident of the Lehman Brothers Minibonds (Lehman Brothers incident). Although this Council has already formed an investigatory subcommittee on the Lehman Brothers incident pursuant to the powers conferred by the Legislative Council (Powers and Privilege) Ordinance, and the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) have also commenced investigations into the complaints, it seems that the relevant authorities have not given due attention to the loopholes in

the financial regulatory regime exposed by the current incident. On the contrary, key officials of the HKMA and the SFC only admitted on different occasions that the incident involves issues of the regulatory approaches and measures but not the overall regulatory regime. It seems that the existing macro regulatory regime was not mentioned even in the six directions for review proposed earlier in this Council by the Secretary for Financial Services and the Treasury. The Civil Party is disappointed by this. In order to avoid the omission on the part of the Government of the indispensable review of the macro regulatory regime in the review to be conducted in the next few months, the Civil Party thus considers it necessary to propose this motion debate in this Council, so that the Government and the relevant officials will attach great importance to public views in this respect in future reviews and map out directions for improvement.

Actually, the scene which left the strongest impression on the public after the occurrence of the minibonds incident is the one with all regulatory officials trying to shirk their responsibilities when a group of financial officials attended a meeting of this Council last month to give details about the minibonds. While the HKMA did not admit that it had the responsibility to regulate the sale of minibonds by banks, the regulatory scope of the SFC does not extend to front-line bank staff. This incident has uncovered the fundamental loophole in the existing regulation of the financial sector, that is, "two regulatory authorities for one industry" has become "one industry not subject to any regulation". This incident has exposed that even financial officials who are paid an astronomical salary, costing taxpayers a substantial amount of money every year, are still unable to curb or even sound advance warnings against the influx of problematic financial products into the market. Besides, a more fundamental issue is that the incident has brought into light a problem, that is, whether the co-operation among the major regulators of the financial system in Hong Kong, including the HKMA, the SFC, the Office of the Commissioner of Insurance (OCI) and the Mandatory Provident Fund Schemes Authority (MPFA) are able to keep pace with market development and effectively protect the interests of investors and consumers.

President, in order to address these problems, we have to pay careful attention to the following three prominent phenomena in the development of the financial sector: Firstly, the boundaries of the financial markets have become increasingly blurred. Services provided by banks are no longer confined to the traditional deposit and lending services but also include financial management and insurance business or even securities investment, and so on. Banks have

become supermarkets of financial products. Similarly, services provided by the insurance industry are no longer confined to those of the traditional insurance business but also include services relating to financial management products. The blurring of such boundaries has posed direct challenges to the capability of different regulators to respond to emergencies and deal with them in a focused manner.

Secondly, investment tools have become very complicated and there are a countless number of financial derivatives. This has made the flow of information, which is beneficial to investors, increasingly confusing. Apparently, the existing system is not adequate to provide proper protection to their interests.

President, thirdly, the ratio of non-professional investors has increased substantially. Consumer financial services or the purchase of financial products are no longer reserved for traditional institutional investors or professional investors. The penetration of financial products has made participation in the financial market a popularized social behaviour, and changes in the financial markets have become closely related to the people's livelihood. However, it is doubtful whether our financial regulators can achieve the function of protecting the interests of non-professional investors.

President, under such circumstances, it seems that the current regulatory regime for the financial markets is unable to catch up with the trend of market development. The current mode of regulation is still primarily market-specific, that is, the HKMA is responsible for the regulation of banks, the OCI is responsible for regulating insurance institutions and brokers, the MPFA is responsible for regulating Mandatory Provident Fund (MPF) scheme trustees, and the SFC is responsible for regulating listed corporations and securitized financial products, and so on. However, this manner of delineation is actually fraught with loopholes.

First of all, differences in the regulatory objective, culture and focus among different regulators may lead to duplication of resources or even omissions of regulation. As I have pointed out just now, the HKMA's objective of regulating banks is to ensure the safety and stability of the banking system, the provision of deposit protection for depositors, liquidity risk management, and so on. With the transformation of banks into "supermarkets of financial products", the traditional approach of banking regulation is unable to keep pace with the

potential need for a different regulatory approach. More importantly, this regulatory mindset of placing too much emphasis on whether or not the banking system is healthy and the delineation of duties in which the regulation of the sale of financial products is vested in the SFC have eventually "fallen between two stools" as a result of the differences in regulatory culture. The emergence of minibonds in the market is exactly the bad consequence caused by this situation.

Secondly, there is also duplication of resources among regulators. In the report published recently on the review of the HKMA's work on banking stability, Mr David CARSE, the consultant of the HKMA, pointed out that banks interviewed had indicated that sometimes there was duplication in the work of the HKMA and the SFC, both of which would often require the production of records and other documents and conduct investigations and inquiries on the same matter. This shows that there is probably duplication in the regulatory framework.

Thirdly, with regard to the regulatory practices and criteria, different criteria are adopted by different regulators, resulting in diverse performance in regulation. For example, regarding the requirement on the dissemination of information on financial products, entirely different requirements are imposed on products purchased through banks and those purchased through brokerages. Obviously, one will obtain less information on financial products when purchasing them through banks than through investment companies. This is mainly because they are subject to the regulation of different regulators. Actually, even for MPF schemes, we can seldom see sales agents of MPF schemes giving detailed information on the funds in each investment portfolio of the MPF scheme, and the information so obtained is very different from that obtained when making investment on funds through an investment company. Consumers purchasing similar investment products in different markets may receive entirely different treatment, yet the risks they have to bear are exactly the same.

President, more importantly, the biggest problem with separate regulation by different regulators is how regulators can be accountable to the public. Everyone knows that although the HKMA is accountable to the Financial Secretary, it is well-known for being an "independent kingdom". Every time the Legislative Council requires the HKMA to give a briefing on its work, it will get a stern face from HKMA Chief Executive Joseph YAM in return. The OCI is only a department under the Financial Services and the Treasury Bureau, the MPFA is a statutory organization accountable to the Financial Secretary, while

the SFC is a corporation independent of the Government. Therefore, different modes of accountability with different magnitudes and directions have also affected the capability of these organizations in regulating the financial sector and protecting investors.

President, therefore, we urge the SAR Government to actively study the feasibility of integrating the regulators of the financial markets to enhance the capability of existing regulators to protect investors and consumers. Overseas experience suggests that a unified regulator can achieve the following: Firstly, enhance the awareness of financial crisis prevention and reduce the damages caused by such crisis; secondly, increase the cost-effectiveness and reduce the cost of regulation; thirdly, improve information flow and solve problems in communication, co-ordination and co-operation among different departments, thereby reducing the loopholes and duplication in different statutory requirements; and fourthly, enhance investor protection, in particular the protection for complaint and compensation for individual investors.

President, over the past two decades, more than 50 countries over the world have implemented different degrees of integration of their financial regulatory frameworks. In 2000, the United Kingdom put various regulators of different sectors under one single regulator, the Financial Services Authority, in order to first, promote public understanding and risk assessment of different investment products; second, reduce the confusion of information caused to consumers; and third, unify the complaint and compensation mechanism. The World Bank, an international institution, also published a report in 2003 on a relatively comprehensive study, providing a rather thorough analysis and examination on integrated financial regulators. In the study, a total of 15 countries which had introduced integrated regulators were interviewed. Among such countries were developed and developing countries, including the United Kingdom, Germany, Canada, Australia, while those in Asia included Japan, Singapore, South Korea, and so on.

President, markets in these places are sophisticated in different degrees. It is impossible for Hong Kong to surpass the United Kingdom, but we believe that, Hong Kong should at least be on a par with Japan, Singapore and South Korea. As these places are already developed to such an extent that an integrated regulator has been introduced with substantial achievement, development in this respect is urgently required in Hong Kong indeed.

President, I have in hand some information which shows that although the United States has a very complicated financial framework and has tried to integrate its regulators on many occasions. Recently, as President BUSH will soon be retire from office, the United States Secretary of the Treasury, Henry M PAULSON, announced a new financial system management plan on 31 March. Under this plan, the authorities will endeavour to implement a certain degree of integration of regulators of different sectors and such integration is totally in line with the direction of integrating financial regulators mentioned by me just now.

President, the World Bank study proved that in 1990, financial groups only used to take up 40% to 50% of the market share of the banking, securities and insurance industries, but in 2001, that is, 11 years later, their market share had risen rapidly to over 60%. The current global financial crisis also shows that financial groups are already playing a decisive role in the success or otherwise of the banking, securities and insurance industries. The damages caused by the collapse of the Lehman Brothers Group are also evident to all. Obviously, the mode of market-specific regulation is already outdated.

President, finally, I have to stress that although I have moved this motion today with the hope that the Government can expedite its study on rationalizing the financial regulators in Hong Kong, I have to make it clear that even under an integrated regulatory framework, a central banking institution which focuses on core banking business is still required in Hong Kong. It is because they can meet different demands and purposes. Banking business is after all the pillar of the financial sector in Hong Kong, and the focus of the central bank lies in assuring the integrity of the banking system; while the focus of a unified regulatory framework is to protect the stability of the financial market and the interests of investors, which are complementary to each other.

President, besides what I have said today, I am also concerned about the various suggestions made by many Honourable colleagues in relation to my motion, which have enriched our discussion on the subject today. One of the most fundamental and relevant suggestions is the establishment of an independent complaint mechanism for financial businesses. President, independent institutions similar to The Ombudsman's office and representing financial investors are also present in other countries. They are given the task of handling complaints and seeking compensation for independent investors. President, this is a useful facility which the Civil Party also considers worth supporting.

However, the basic idea behind such a facility is slightly different from the regulatory function mentioned by me just now. This independent complaint mechanism can only provide assistance to investors when problems have arisen, thereby providing them with a channel to air their grievances. It is, however, of a different level compared to a regulatory system for crisis prevention. President, I think if Honourable colleagues support the establishment of an independent complaint mechanism for financial businesses, they should also support an integrated regulatory framework.

President, I hope that the debate today can arouse the SAR Government's interest in the financial regulatory framework so that early improvements will be made to enable Hong Kong to achieve the objective of becoming an international financial centre. President, I so submit.

Mr Ronny TONG moved the following motion: (Translation)

"That, as presently the regulation of the financial sector and financial products is vested in a number of regulators, causing the suspicion that there are duplication and fragmentation of their regulatory roles, functions and resources, this Council urges the Government to expeditiously conduct a comprehensive review and study of the existing four major financial regulators, including the Hong Kong Monetary Authority, the Securities and Futures Commission, the Office of the Commissioner of Insurance and the Mandatory Provident Fund Schemes Authority, to ascertain if there is any need to rationalize and improve their regulatory roles, functions and resources in the regulation of the financial sector, or introduce other improvement measures, such as strengthening the regulation on the sale of financial products, so as to enhance the standards of the regulators and protect the interests of investors."

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

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

I now call upon Mr CHAN Kam-lam to speak first, to be followed by Mr Albert HO and Ms Miriam LAU; but no amendments are to be moved at this stage.

MR CHAN KAM-LAM (in Cantonese): President, Hong Kong was battered by the Asian financial turmoil in 1997, but the impact of that financial turmoil was only felt within the Asian region but not in European and American countries, and as a result, there was only small-scale restructuring in the international financial market. However, the financial tsunami on this latest occasion has been regarded as a once-in-a-century incident. Therefore, we can envisage that the financial market reform in the future will be of a greater strength and depth than that a decade ago.

The United States has all along adopted a *laissez-faire* policy on the financial market and institutions, which has sown the seeds for the prevailing financial tsunami. During his office as the head of the Federal Reserve Board, Alan GREENSPAN, former Chairman of the United States Federal Reserve, opposed restraining market development and enhancing regulation of the financial derivative market. However, he made an in-depth reflection last month and admitted that he was indeed wrong in upholding the free market regulatory practice in the past.

Therefore, the financial tsunami has caused the world to become strongly vigilant against the liberalization of the financial sector, and a consensus has been forged among countries that regulation has to be stepped up. In the closing statement of the G20 Summit: Financial Markets and the World Economy held earlier in Washington, various common principles were proposed, among which, the short-term objectives of enhancing regulation include enhancing the regulation of credit products and securitized products of banks, reducing curb trading which may cause systemic risks and transactions of complicated financial derivatives.

The statement pointed out that market principles, open trading and investment systems as well as financial markets with effective regulation are the fundamental factors in ensuring economic development, employment and poverty alleviation. The statement analysed the root of the prevailing crisis and highlighted that the lack of continuity in macro-economic policies, market participants' excessive pursuit of high returns, the lack of risk assessments, the

failure to perform relevant obligations, inadequate reform of the economic structure, and so on, have all hindered the sustainable development of the global macro-economy, causing excessive risks and ultimately creating serious market confusion.

President, it is also stated in the statement of the G20 meeting that the tyranny of deregulated financial skills in the market is not only unable to facilitate economic development but may also create financial bubbles. Professional financial skill personnel will become make-up artists for bad debts and national financial strength will be distorted, causing irremediable calamities to countries all over the world.

Hong Kong is an international financial centre. In recent years, it can be said that Hong Kong has made every effort to develop the derivatives product market, and the SFC has provided great flexibility to warrant issuers. In the light of this unhealthy phenomenon, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) made strong requests many years ago, disagreeing with the adoption of less restrictive deregulatory policies on the derivative market, including products such as warrants, callable bull/bear contracts and accumulators. We also criticized that these market activities had deviated from normal investment behaviour and turned the financial markets into a downright financial casino. However, in order to maintain the ranking of Hong Kong as the largest global warrant market, the SAR Government and financial regulators have all along been ignoring our suggestion. Despite our repeated requests for a review of the requirements for professional investors, the Government still adopted a stalling tactic without making any active effort.

Everyone would agree that the financial sector of Hong Kong is very significant to the development of the local economy. It is a major pillar of the economy and plays a very essential role in the financial system of the country. How to play this role effectively is very important to the development of Hong Kong in the long run. Therefore, apart from excellent hardware, effective market regulation, stringent requirements and regulations, fair and open operational order and quality financial product regulation are vitally important.

There have been comments that the financial markets of Hong Kong, which are always subject to the manipulation of international predators, are the best place for reaping money. Come to think about this. While people in Macao seldom bet at casinos with their chattels, the people of Hong Kong always place

large bets in the financial markets. Yet, the Government considers it a normal phenomenon and even takes delight at the ever increasing trading volume of the markets, and takes it as our achievement to be boasted about to the international community, thinking that in this way we have a chance to move towards the "Nylonkong" niche. Compared with other markets, the markets of Hong Kong are a lot more open so as to attract more investors and achieve expansion. Regulation carried out by other markets to protect their small investors is seldom adopted in Hong Kong, which has caused a considerable amount of the public's wealth being transferred to the stomach of predators. It is therefore not surprising that the heads of financial institutions of the United States and the United Kingdom earn an annual income of up to tens or even hundreds of million US dollars.

The DAB thinks that we must review the existing system and framework in order to adapt to the change to the new international financial order. First of all, the mode of "two regulatory authorities for one industry" currently adopted in Hong Kong has to be re-examined. Under the mode of "two regulatory authorities for one industry", regulatory legislation of financial investment products in Hong Kong is enforced under various requirements and ordinances, and the actual regulation is carried out by both the SFC and the HKMA. The SFC will not carry out approval and quality evaluation of investment products, while the HKMA is unable to introduce requirements on the type of products to be sold by banks. With such decentralization of power, resources are not put to effective use. In handling investor complaints, additional obstacles are created and more time is needed in investigation. This has made it difficult for investors and banks to know clearly, even after making much effort, what specific actions are available to them as victims. Is it necessary for us to shift to the mode of a single regulator similar to the Financial Services Authority (FSA) of the United Kingdom in the future, or should we model on the dual-regulator approach adopted in Australia, with one institution being responsible for regulating the liquidity position and financial soundness of financial corporations, and another for monitoring general commercial conduct? This requires detailed study, thorough consultation and discussion by the Government and regulators.

Moreover, we suggest that the Government should expeditiously review the existing disclosure-based regulatory principle. Theoretically, the best practice is to make investors responsible for their own decisions. However, the ratio of retail investors in Hong Kong is far higher than those of the European and American markets. Despite the continuous investor education provided by

regulators in Hong Kong, investors are still unable to gain a full understanding of the market and the products and are unable to eradicate the bad habit of blindly following the crowd. When there are defaulting financial practitioners, investors will suffer great losses. I am afraid that if gatekeepers just mechanically uphold the disclosure-based principle, they will only indulge in self-deception, thinking that investors will gain a clear understanding of the risks involved, while it is not the case in reality. Therefore, the DAB thinks that the Government should conduct a comprehensive review and reform of whether it should maintain the "disclosure-based" and "investor-responsible" regulatory principles or specify that the relevant principles do not apply to retail investors, how the legislation should be amended and how transactions should be regulated.

Besides, we also think that an independent investor complaint mechanism should be established, so that regulation, investment and investigation can be carried out independently; and this independent framework should be empowered to instruct the relevant defaulting financial institutions to compensate their clients.

President, we think that only markets which provide protection to investors can achieve sustainable development. I so submit.

MR ALBERT HO (in Cantonese): President, recently, a spate of financial incidents has occurred in Hong Kong, from the improper practice in the sale of the Lehman-related investment products to the sudden announcement of a listed company, CITIC Pacific, of the instant loss of almost half of its assets as a result of the disproportionate substantial investment on high-leverage futures products by its management. Such problems have aroused widespread concern among investors in Hong Kong and cast doubts on whether or not the regulators in Hong Kong can effectively play the role of gatekeepers. The motion moved by Mr Ronny TONG today is very timely in that it gives us the opportunity for a comprehensive discussion.

Regarding this discussion, of course, there are first of all two more important issues: Firstly, with regard to the regulation of the securities sector, the issue of "two regulatory authorities for one industry" warrants a fresh review. Actually, when the securities and futures legislation was passed back then, many Honourable Members queried whether or not this mode of regulation should be adopted. However, the Government stressed at that time that the Hong Kong

Monetary Authority (HKMA) had the capability and was in a better position to assume the role of the regulator of banks, and therefore, it did not want to create duplication of roles of the Securities and Futures Commission (SFC) and the HKMA. I remember queries were raised at that time by a lot of Members, including Dr Margaret NG, the then Chairman of the Bills Committee, and us from the Democratic Party. We think that a lot of problems would arise. Unfortunately, these problems have really emerged. In this incident, the HKMA has shown that it has little to offer as far as regulatory capability is concerned. In this regard, I do not intend to elaborate any further, and I will leave it to our select committee to conduct a comprehensive and fair investigation.

The second issue is the "disclosure-based" principle. The "disclosure-based" principle is still generally applied in countries all over the world, especially where the financial sector is more developed. However, I still think that if financial products are put on the retail market and sold to small investors, in particular investors with little knowledge, and also sold at banks over-the-counter so to speak, a lot of problems will arise. Just adopting the "disclosure-based" principle is not enough. I think the regulatory authorities may have to consider — I will not talk about other issues today — I think consideration may have to be given to keeping the gate in a certain areas. Particularly, when the structures of some financial products are very complicated and the so-called investment return is unreasonably disproportionate to the risk, we cannot expect small investors to understand this. If we just count on front-line sales agents to perform their obligations, there will be a lot of disputes on whether or not improper sales practice is involved in the future. This is the situation we are facing today. Therefore, I think making the regulatory authorities keep the gate under some circumstances is worth considering. Basically, it is fine to adopt the "disclosure-based" principle. However, under some circumstances, even full disclosure is still inadequate.

Thirdly, today, we can see that even the so-called "disclosure-based" principle is not helpful at all. Why? It is because the disclosure is only on those so-called main terms and conditions of the investment, while the risks involved are not clearly explained, neither is the nature of the risks explained in a language that ordinary investors would understand. Therefore, when people take up a sales brochure of minibonds, they will only see the most attractive gifts, which are either gift coupons or electrical appliances, while the terms and conditions of the minibonds are published in the smallest print and written in the most complicated language. However, what are the risks involved? There is

not any clear presentation or disclosure at all in this respect. Then how can it be called "disclosure-based"? If investors are informed in such complicated language, frankly speaking, it is like the chemical terminology on medication brochures. At reading these chemical terms, what good will they do to us? In the past, even when people told me that melamine was present in all the food I took, I did not know what it was and would take the food as usual. Therefore, this is meaningless. The biggest problem lies in the fact that the requirement of the "disclosure-based" principle is not to disclose risks but some terms and conditions. This is a complete failure. Besides, inadequate efforts have been made by regulators. However, I will stop here and I hope the select committee will find out whether the spirit of the "disclosure-based" principle can be manifested in the future because this is not the practice adopted by overseas countries. To my knowledge, in Australia, it is required that in risk disclosure, very large prints have to be used to analyse the risks involved, and an analysis has to be provided. We were unable to achieve this. I hope we can find out what kind of review and reform can be carried out in future.

The amendment proposed by me today mainly seeks to prompt us to consider establishing an independent financial ombudsman system, which is also established in the United Kingdom, Australia and Singapore. In the United Kingdom, the Government made it a non-government institution by way of legislation so that it can provide assistance to consumers and financial institutions through independent and fair procedures when dispute arises, and it can provide more information to investors and carry out mediation.

This ombudsman office in the United Kingdom provides services free of charge. Its funding comes from a levy imposed on the financial sector, and government funding is not required. Of course, its operation can facilitate the financial sector in establishing a fairer and more transparent mechanism, and it is a system that can provide the most inexpensive and simplest way of dispute resolution.

In order to perform its official duties more effectively, these offices have laid down requirements for co-operation with regulators by way of agreement or co-operation memorandum, thereby establishing a very effective platform for dispute resolution.

Besides, we can find that the history of Australia's financial ombudsman system is similar to that of the United Kingdom. In Australia, such duties used

to be shared among three independent institutions, one being the Banking and Financial Services Ombudsman, another one was the Financial Industry Complaints Service, and there was also the Insurance Ombudsman Service. Recently, they were merged to form the Financial Ombudsman Service the *modus operandi* of which is similar to that of the United Kingdom. However, one important point is that it will make every effort to facilitate conciliation between the two parties by providing information. Besides, it can handle some complaints or even impose sanctions. It can impose penalties on financial institutions if it rules that there are cases of non-compliance. However, it does not have the power to instruct financial institutions to make compensation. If it is really necessary to make any claim, judicial proceedings have to be initiated. I think this is more desirable because I do not think that these institutions should usurp the role of the judiciary, especially when the claim is very large, there is no reason to deprive financial institutions of the right of defence in judicial proceedings.

For this reason, even though my amendment is very similar to that of Mr CHAN Kam-lam, I still have reservation about one point in Mr CHAN Kam-lam's amendment, that is, his specification that there should be the power of instruction for compensation, while I think that judicial proceedings should be maintained. This will not only enable complainants to pursue a claim in Court, but also allow banks to defend their case. Therefore, I will abstain from voting on Mr CHAN Kam-lam's amendment.

MS MIRIAM LAU (in Cantonese): President, the Lehman Brothers incident has exposed that the financial regulatory mechanism of Hong Kong is fraught with loopholes. Although the authorities have undertaken to carry out a comprehensive and thorough review of investor protection upon receiving the reports on the Lehman Brothers incident to be submitted by the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA), and this Council will carry out an investigation later, the Liberal Party still considers that it is necessary to conduct a debate on how to reform the regulatory mechanism of the financial sector and protect investors, such that our views and suggestions can be conveyed to the authorities. With my amendment, I want to point out in particular the problems caused by the existing framework of "subjecting one industry to several regulatory authorities" and the "disclosure-based" regulatory principle as well as the problems with the regulation of the sale of investment-related insurance products.

The Lehman Brothers incident has reflected two questions of principle. First, whether the regulatory authorities are at fault; second, how to prevent the recurrence of situations in which investors are misled by financial institutions into buying products which involve risks that they are unable or reluctant to bear. If it is thought that problems arising from the Lehman Brothers incident can be thoroughly resolved by arbitration and conciliation only, I am afraid it is just a practice to muddle the matter through, which will only intensify the anger of the victims.

The current regulation of the entire financial sector mainly involves four institutions, including the HKMA, the SFC, the Mandatory Provident Fund Schemes Authority (MPFA) and the Office of the Commissioner of Insurance (OCI). The situation of "subjecting one industry to several regulatory authorities" is inherent in the design of the regime.

However, various drawbacks will be created. For example, the lack of co-ordination among regulators has caused the fragmentation of regulation, and there were often situations showing duplication of efforts. In the Lehman Brothers incident, we are fully aware of the detriments caused by "two regulatory authorities for one industry" — the so-called separate regulation is in reality absence of regulation.

According to the policy objectives of various regulators, investor protection should be undertaken by the SFC. However, in the Lehman Brothers incident, most subjects of complaints were banks regulated by the HKMA, whose four major duties do not include investor protection. Therefore, even though it regarded minibonds as problematic, it would only call on banks to be careful in their transactions instead of dissuading the public from purchasing them. As regulators were not exercising any regulation at all, banks could sell these "toxic bonds" to clients in large quantities, thereby causing a large number of people to be victimized.

Besides, when victims of the Lehman Brothers incident lodged their complaints with the regulatory authorities, they had to complain to the HKMA first under the framework of "two regulatory authorities for one industry" as the products were purchased through banks, and such complaints, after being established, would be referred to the SFC for repeated scrutiny, which is obviously a duplication of efforts. It has been more than two months since the

occurrence of the Lehman Brothers incident. During the lengthy process of the complaints, the investigation of not even one case has been formally completed.

What is more, although the SFC is especially tasked to regulate financial products and has been upholding the "disclosure-based" principle, which is notionally in line with international standards, with the hope of striking a balance between regulation and encouraging financial innovation, it is actually tantamount to putting all the risks on investors. The Lehman Brothers incident has proved that this is not practicable, and society has paid a heavy price as a result. Immediate reform is indeed required.

In sum, it remains to be clarified and rectified whether the two regulators mentioned above are regulators of products or protector of investor interests.

Actually, although such structured products are also sold by financial institutions in places like Europe and the United States, the sales are targeted not at retail investors but institutional investors. The United States even prohibited the sale of such products as minibonds to retail investors. Therefore, in the review of the future regulatory direction, it is necessary to prevent situations in which local retail investors are taken by large, foreign corporations as the sales targets of high-risk products, thereby being victimized.

Besides, I would also like to point out that the definition of professional investors provided under the Securities and Futures Ordinance is outdated because it is provided under the existing legislation that only individuals or institutions with an investment portfolio of \$8 million will be regarded as professional investors. However, it is only an incomplete definition if whether or not a person is a professional investor is defined only by the amount of investment. Investment experience of the investor should also be included so that retail investors will not be misled into buying some high-risk financial derivatives.

President, in recent years, banks in Hong Kong have been making great efforts to develop their retail business. Besides structured financial products packaged as bonds, the main objects of sales also include investment-linked insurance packaged as "life insurance". The characteristic of this kind of products is combining life insurance policies with fund investment. Contributions are generally made on a monthly basis and the term can be as long as 30 years. As life insurance only accounts for a nominal proportion of 1%, it

is commonly known as "insurance 101". From the structure of the product, we can see that taking out insurance in this kind of products is actually not different from investing in retail funds.

According to the latest figures released by the OCI, in 2007, the business of investment-linked life insurance amounted to \$60.3 billion, representing a sharp increase of 88.7%, and business was indeed very robust. However, investor complaints about this kind of products increased at the same time. In the first three quarters of 2007, the Consumer Council received 23 related complaints, which represented a significant increase of 77% compared with 13 cases received during the same period in the previous year. The OCI also received 87 complaints during the same period, representing an increase of 38%. This shows that the number of complaints is increasing in tandem with the number of products.

People in the profession have pointed out that banks are just "cherry picking" the information to be given in promoting such investment-linked products, as in the case of Lehman-related products. In order to enter into insurance contracts and obtain the commission, most agents will only provide information on the rate of return without mentioning the risks involved. The investment portfolio and terms of conditions of such policies are very complicated, and the funds invested have a very low level of transparency. Add to this is the fact that some products may contain elements of margin and leveraged funds, so the risks to be borne by the insured is not at all lower than those of Lehman-related products. There was a media report that an insured was persuaded into signing an insurance contract containing "guaranteed funds" with a leverage element and of a total worth of \$500,000, but 80% of the premium was lost in five years' time eventually. When the insured lodged a complaint, the SFC, which approved such products, discontinued the investigation on the ground that the product had been promoted and sold "in the form of an insurance plan". The OCI also requested the subject to lodge his complaint with the Professional Insurance Brokers Association on the ground that the broker was a licensee of the Association. The shirking of responsibilities by these two organizations has rendered the victim finding no recourse to redress.

Besides investment risks, as these insurance policies generally require the insured to make contributions over a long period, if the insured is unable to make contributions in accordance with the contract, their insurance policies will very often be terminated and they will suffer great losses. According to media

reports, a 68-year-old elderly was persuaded into taking out eight such insurance policies valued at \$2.5 million, only to find out later that contributions had to be made over a long period. In the end, the insurance policies were terminated as the subject was unable to make the contributions. The subject managed only to recover \$920,000 and suffered a total loss of \$1.5 million. This shows that investing in investment-linked insurance products is the same as investing in Lehman Brothers minibonds, with traps all over the place. This should also be reviewed by the authorities at the same time.

Finally, the Liberal Party has always been supportive of establishing a "one-stop" mediation and arbitration mechanism to handle financial disputes because this can provide victims with a fast and affordable channel for pursuing claims. As the mediation and arbitration framework mentioned in the respective amendments proposed by Mr CHAN Kam-lam and Mr Albert HO is in line with the idea proposed by the Liberal Party, the Liberal Party will support it.

President, I so submit.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President and Honourable Members, first of all, I wish to thank Mr Ronny TONG for moving this motion, which enables us to conduct discussions on the issue of financial regulation and matters relating to the overall regulatory regime. As a matter of fact, since the outbreak of the global financial turmoil and the Lehman Brothers Minibonds incident (Lehman Brothers incident), we have been following the concerns expressed in society about the financial regulatory regime and all the related discussions.

The Government has already undertaken to conduct a comprehensive and exhaustive systematic review and explore ways of further perfecting the financial regulatory regime at the policy level after the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) have completed their reports on the problems and recommendations associated with the Lehman Brothers incident.

Today, I am glad to listen to Members' views on this topic.

First, I wish to explain the role and functions of the HKMA and the direction of further improvements in the future.

One cannot possibly find any two financial regulatory regimes in the whole world which are exactly the same. All regulatory regimes have evolved from different historical, political, cultural and economic backgrounds. Hong Kong's financial regulatory system is no exception.

Hong Kong's present financial regulatory regime is composed mainly of four regulators, namely, the HKMA, the SFC, the Office of the Commissioner of Insurance (OCI) and the Mandatory Provident Fund Schemes Authority (MPFA). There is basically a division of labour among these four regulators based on the types of financial institutions under supervision.

Let me first introduce the respective roles of the various regulators. The HKMA is responsible for the regulation of the banking system. Under the Banking Ordinance, the HKMA is the licensing authority responsible for the granting and revocation of authorization of all authorized institutions. And, it is also responsible for promoting the security and stability of the banking system in accordance with prudent regulatory principles. As the front-line regulator, the HKMA also supervises banks in the provision of securities services, including the adequacy of their internal monitoring measures in the sale of securities investment products, so as to ensure their compliance with the relevant codes of market conduct and practices.

Established in 1989, the SFC is responsible for supervising the securities and futures business. Under the Securities and Futures Ordinance, all financial institutions conducting business in securities and futures, be they banks or brokers, must apply to the SFC for the required licences. In the course of providing such services, all financial institutions must be bound by the relevant codes of market conduct and practices for the maintenance of market efficiency and protection of investors' interests. The SFC is at the same time responsible for supervising the Hong Kong Exchanges and Clearing Limited and its subsidiaries, including the Stock Exchange of Hong Kong Limited, the Hong Kong Futures Exchange Limited and the three authorized clearing companies.

The OCI is part of the government framework, with responsibility for regulating insurers and insurance intermediaries. The OCI strives to ensure the stability of insurers and protect the interests of policy holders by examining annual audited financial statements, actuarial reports and arrangements for reinsurance.

The MPFA was established in 1998 with sole responsibility for regulating and overseeing the operation of the Mandatory Provident Fund System (MPF System) launched in 2000, ensuring compliance with the Mandatory Provident Fund Schemes Ordinance and protecting the interests of members of MPF Schemes. The MPFA also conducts MPF investment education and disseminate detailed information, with a view to helping MPF scheme members to choose the right funds.

Deposits, investment products, insurance policies and mandatory provident funds are all the assets of the public. Regulators are duty-bound to check whether the institutions providing such services and products are sound, and whether investors' interests are given the best possible protection.

Under the relevant legislation, each of the four regulators focuses on different regulatory targets and objectives. In general, they all serve the four broad functions as follows:

- (a) Promotion of financial institutions' security and stability: Generally, regulators will seek to oversee the operation of financial institutions through the imposition of capital fund requirements, so as to ensure that no financial institutions will run into any financial difficulties due to excessive expansion and losses. The focuses of regulation are the repayment abilities of financial institutions and the protection of clients' assets.
- (b) Reduction of systemic risks: Apart from the stability and reliability of major institutions, the effective operation of the financial system must also depend on the smooth functioning of certain key system segments. For example, the Real Time Gross Settlement System for banks and the settlement systems for the securities and derivative tools markets must be sound and smooth. Hong Kong is an international financial centre, so its requirements on such settlement systems are especially stringent, and it is necessary to minimize all operational risks.
- (c) Maintenance of market fairness, impartiality and efficiency: A highly efficient market is characterized by an effective price-finding mechanism. The prerequisite is that timely, accurate and sufficient market information must always be available to market players

wanting to make investment decisions. The emphases of regulation are the mandatory provision of certain information, the disclosure of product risks and the prevention of insider-dealings.

- (d) Enhancement of protection of investors' interests: The Lehman Brothers incident has focused public attention on this fourth function of financial regulation, that is, the protection of investors' interests. To this end, regulators will formulate codes of market conduct and practices for compliance by financial institutions. And all this covers the types of information to be disclosed to customers, product suitability tests for customers and measures to ensure that customers can buy and sell under fair and equitable conditions.

In a rapidly changing financial market, what kinds of regulatory framework can enable us to achieve the abovementioned regulatory objectives with the limited resources available? This is actually the direction which Mr Ronny TONG's motion urges the Government to follow. We very much agree that this is an issue which requires continuous review by the Government.

Internationally, there are four main approaches to financial regulation:

The first is the institutional approach, whereby a firm's legal status largely determines which regulator is tasked with overseeing its operation. If a firm is registered as a bank, it will be subject to the regulation of banking supervision authorities. If it is registered as a broker, it will be supervised by the authorities responsible for securities and futures. Basically, the Mainland and Brazil are examples of places adopting this approach.

The second is the functional approach. Under this approach, the different types of business transacted by the same entity may be subject to different functional regulators. For example, if a firm's business covers banking, securities and insurance, it will be subject to the supervision of three different regulators all at the same time. The regulatory structures of Italy, France and Spain in Europe are closer to this model.

The third is the approach of regulation by objective. All the four regulatory approaches mentioned here can be divided into two major types: first, the type that seeks to maintain supervision in respect of institutional and market stability, and, second, the type that seeks to promote supervision in respect of

market transparency and efficiency as well as market practices conducive to investors' interests. In places adopting this approach, there is a separation of two regulators based on these two objectives. This means that one is responsible for the systemic stability of the market, and the other is responsible for supervising market practices and conduct. The most notable examples are Australia and the Netherlands.

The fourth is the integrated approach, which has been mentioned by some Members. Under this approach, there is a single universal regulator which conducts both safety and soundness oversight and conduct-of-business regulation. The case of Singapore and the Financial Services Authority of the United Kingdom are examples of places adopting this "super regulator" approach.

It can be said that these four approaches together constitute a spectrum of financial regulation. There is no purely institutional approach as such, nor is there any purely functional approach. It can be said that Hong Kong's approach is basically institutional, featuring also functional approach elements. As a matter of fact, there are both pros and cons in the case of all approaches. There is not yet any international consensus on which approach can achieve the most effective supervision. In the United Kingdom, the integrated approach has been operating for more than a decade, but following the Northern Rock incident, the authorities were still criticized for slow responses. As a result, they have been forced to conduct a fresh review to identify the loopholes of the integrated approach and make improvements.

We note that the business of local financial institutions has become increasingly diversified in recent years. For example, instead of providing deposit-taking and lending services only, banks are now also engaged in the buying and selling of securities and funds as well as the provision of insurance services. Insurers, as rightly pointed out by Ms Miriam LAU just now, will also sell investment-linked insurance products. While mainly adopting the institutional regulatory approach, we also emphasize that financial regulators must all the time seek to enhance their communication, co-ordination and co-operation, so as to cope with the increasing integration of financial services. One example is that with a view to fostering their information exchanges, the four financial regulators have entered into a Memorandum of Understanding.

A two-tier conference system has also been put in place to institutionalize the co-ordination and co-operation among the financial regulators. The first tier

is the Financial Stability Committee, which convenes a meeting roughly once a month. This committee is chaired by the Secretary for Financial Services and the Treasury, with members from the HKMA, the SFC and the OCI. The second tier is the Council of Financial Regulators, which convenes a meeting once every quarter. It is chaired by the Financial Secretary, with members from the four financial regulators.

With the regular and non-regular meetings under this two-tier system, we can effectively co-ordinate the work of the various financial regulators, thus avoiding any possible duplication of efforts or unclear division of responsibility and minimizing the policy incongruities among them.

The financial tsunami has put Hong Kong financial institutions through a severe pressure test. Their capital adequacy and relative stability can all testify that the existing regulatory regime can serve the desired function, especially in ensuring the safety and stability of financial institutions and the market as a whole. However, the Lehman Brothers incident has still shown that we must explore how we should better achieve the regulatory objective of protecting the interests of investors. For this reason, we have undertaken to conduct a review of the issues relating to the Lehman Brothers incident, including the present disclosure-based regulatory regime, the regulation of investment products and the practice of "two regulatory authorities for one industry". We have undertaken to conduct the required review after the HKMA and the SFC have published their reports on the Lehman Brothers incident. In case any loopholes are identified in the review, appropriate improvements will be made timely.

I think each country or place should make adjustments to its own regulatory approach in the light of its actual market situation. The reason is that every regulatory approach carries both pros and cons. Therefore, when trying to improve our regulatory regime, we must consider the international regulatory trends and also the unique circumstances in Hong Kong. We will also adopt an open attitude and listen to the views of all sectors.

Thank you, President.

MR CHIM PUI-CHUNG (in Cantonese): President, the financial sector is an important sector in Hong Kong. Therefore, today's motion on "Reforming Financial Regulators" is very timely.

President, from the discussion just now, everyone understands that the regulation of the financial sector in Hong Kong is divided into four segments. I will not talk about insurance and the Mandatory Provident Fund but will only discuss the operation of the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA). To our understanding, stock affairs in Hong Kong are, in theory, handled under the leadership of Secretary Prof K C CHAN, which is the first tier. The second tier is the SFC, and the third tier is the Hong Kong Exchanges and Clearing Limited (HKEx). The Stock Exchange of Hong Kong (SEHK) was formed after merging four exchanges in 1986. Since its inception, it was sometimes criticized by different sectors in society for being a private club. Theoretically, no conflict was involved, and there was nothing wrong about it because it is actually an organization consisting of four exchanges. Is the existing SEHK not a private club as well? Just that it is a private club of the Government and various funds. The Board of Directors of the SEHK consists of 13 members, including the Chief Executive, and seven members are appointed by the Government. In other words, the Board of Directors is under their control, and the rest of the members are mainly under the control of various funds.

We can see that with the additional auction period of the SEHK, those major funds even manipulated the market at will. The Government did not pay any attention to such blatant behaviour. Why? Theoretically, this falls under the purview of the Secretary. However, as four to five Board members are Members of the Executive Council, does the Secretary has the courage to regulate them? This has exposed a major flaw of the financial regulators.

The second tier is the SFC. We understand that theoretically, the SFC is not to be managed by the Secretary as it is an organization outside the Government. Under such circumstances, the financial regulation in Hong Kong is very chaotic indeed. The Acting Secretary can at most provide explanations, how can he supervise them? This is just empty talk.

President, we know that the existing policy of the SFC is primarily "disclosure-based". Sometimes, even when we think that it has done something wrong, we are unable to criticize it because there are many areas not covered by its responsibilities. Listed companies or stock brokers have to be responsible for their own comments, and the SFC is not responsible for them. It will carry out regulation but it will not be responsible for them. This is the weirdest phenomenon in the management of the financial regulators in Hong Kong. It

receives funding from the public and the industry, yet it does not bear any responsibility. This must definitely be reviewed. At present, it is undeniable that apart from the Financial Secretary, the Secretary holds the greatest power. However, he is only a puppet Secretary responsible for answering all the questions raised by Members in the Legislative Council. I do not believe he has any exercisable power, and at most he can only require the Permanent Secretaries for Financial Services and the Treasury to do some tasks.

President, it is both the positive and negative impacts of the minibonds that have given the Government the opportunity to review financial reforms 11 years after the handover. Actually, when the Stock Exchanges Unification Ordinance was passed by the Legislative Council in 2002, some Members present also participated in the scrutiny of the relevant bill and policies at that time. Do they not have any responsibility? As Members, especially those who participated in the scrutiny at that time (if I were a Member of the Legislative Council at that time, I would also have participated in it, just that I had not joined the Legislative Council at that time), we also have to carry out a self-review. The Government is not absolutely right, and Members, instead of just claiming credits, have to be accountable to themselves and society when they have made any mistake. Now, it is proved that it was wrong for them to assist the Government in passing this securities legislation prescribing "two regulatory authorities for one industry". A lot of queries and questions were raised by the industry at that time, but the Government was unable to hear them. This is an area of review for the Government.

President, this issue naturally involves the HKMA. At that time, the HKMA assured Members that it would, upon gaining the relevant power, share the power with the SFC. However, Mr Joseph YAM has been in office for 15 years, not five years, five years after five years; three years, three years after three years, but 15 years. After successfully seizing this power, he has not effectively regulated the banks under his supervision. Instead, he has even condoned and connived at banks in acting against the interests of society and the public. Accumulators will actually lead to very serious problems, but we can see that despite the numerous voices and complaints in society, the HKMA and the SFC still conspired with each other to ignore them. I doubt very much whether the HKMA actually serves large-scale financial institutions and banks in the world. May I ask how we can possibly not reform the financial framework? Although this may not be the duty of the Acting Secretary, and he may not have the power in this regard, I still hope that he can hear our voices, President.

DR PAN PEY-CHYOU (in Cantonese): I do not know whether the President has the habit of reading the financial pages of a newspaper. The financial pages nowadays are becoming more and more similar to the sports pages or the racing pages. In the financial pages, we can often find the following lines, let me quote, "Morgan Stanley has recently reviewed its constituent stocks. Among the six local stocks newly included in the Morgan Stanley China Index, five are domestic demand stocks. It shows that domestic demand stocks merit a positive evaluation." Then let us take a look at the sports pages of the same newspaper of the same day: "With its better performance and superior strength, the X Club may gain an easy victory by playing away and winning two legs in a row. The odds ratio of a win for the away team is 2.35. It is a worthy bet."

Actually, as readers need to obtain information as a guideline to place their bets or make investments, the financial pages are thus written in the style of "soccer articles". However, readers know that people may have divergent views, and they also understand that the suggestions in these "soccer articles" and "stock articles" may not be entirely credible. However, when it comes to the views of some credit rating agencies, it is a totally different story.

First of all, let us look at the attitude adopted by the Government towards these rating agencies. In July last year, in response to Moody's upgrading of Hong Kong's sovereign ratings, the Financial Secretary said, "Hong Kong has now achieved AA ratings for its foreign-currency and local-currency obligations by all major international credit rating agencies, the highest that has ever been assigned to Hong Kong." He went on to say, "I am pleased to note Moody's recognition that Hong Kong's economic and financial resilience to unforeseen external developments has grown over the past several years." We can clearly feel the Secretary's delight from his remarks.

Let us then take a look at the attitude adopted by Hong Kong enterprises towards rating agencies. Many enterprises would publish their credit ratings on their websites to prove that they are financially stable. Therefore, I can say that these rating agencies enjoy considerable respect from the entire society.

Actually, credit rating agencies already have a history of almost a hundred years. They have been providing services to governments and enterprises of various countries in relation to financing, and they can be considered as an indispensable element of a healthy financial system. However, ever since the inclusion of just a small number of rating agencies by the Government of the United States in 1979 in the list of Nationally Recognized Statistical Rating

Organization, genuine competition has practically disappeared and the industry has become a monopolized enterprise. Today, although there are more than 150 credit rating agencies worldwide, the majority of the business is actually undertaken by three agencies.

Monopolization can become a breeding ground for degeneration. Quite a number of problems relating to rating agencies have emerged in recent years, and I will only cite a couple of examples. This summer, Lehman Brothers Holdings Incorporation, an investment bank, even collapsed within one month after it had been given an AAA rating. Earlier in 2001, the ENRON Corporation, a large-scale American energy company, was still enjoying an "investment grade" rating even four days before its bankruptcy because of the release of false information. Some surveys even revealed that staff of some rating agencies had engaged in corrupt conduct. Besides, there are also numerous comments casting doubts on whether unfair ratings were issued by rating agencies for political reasons. In the recent Lehman Brothers Minibonds incident, many victims claimed that they had been tricked by the extremely high ratings achieved by the collaterals of these minibonds. Recently, a survey conducted by the United States Congress also found evidence of staff of some rating agencies having provided false information.

Actually, ever since the outbreak of the subprime crisis, the United States and Europe have been studying ways to enhance regulation of the operation of rating agencies and consideration has been given to achieving this by way of legislation or other processes. How about Hong Kong? Under "one country, two systems", Hong Kong, with its strong judicial system, free flow of information and capital and a large number of financial professionals well-versed in the operation of the capitalist economy, can naturally assume the role of an international financial centre of our country. With the continuous growth of our country's relative strength in the international arena, there is an increasingly obvious trend for Hong Kong to become the only international financial centre of the Motherland. However, on the establishment and regulation of credit rating agencies, we have to admit that Hong Kong is suffering from blatant delays in development. As a financial centre as important as this, we have neither any locally based rating agencies nor any proper mechanism to regulate rating agencies effectively. As rating agencies are not registered with the Securities and Futures Commission, they are only governed by the provisions applicable to the generality of persons under the Securities and Futures Ordinance. Under such circumstances, our investors and fund raisers are like lambs without any

protection at all. We can only wish them good luck, not being deceived by jackals disguised as shepherds.

However, a sole reliance on luck cannot transform Hong Kong into an international financial centre delegated with important duties by the State. Therefore, the Government should no longer indulge in the fantasy of active non-intervention, but should act promptly and learn a lesson from the bitter experience. The Government should actively study ways of regulating rating agencies, draw on the experience of Europe and the United States and the latest development, and introduce and apply proper approaches. The Government should also adopt every reasonable measure to encourage and nurture the development of local rating agencies. At present, capital in the Greater China is becoming increasingly abundant, and the financial sector has very enormous potential for development. As the Government regards the financial sector as the pillar of the Hong Kong economy, it should leverage on the international market adjustment to develop related industries in order to consolidate and strengthen the financial sector. This matter should brook no delay and we must seize this opportunity.

President, I so submit.

DR LAM TAI-FAI (in Cantonese): President, regarding the Lehman Brothers incident, a Subcommittee has been formed under the House Committee to conduct an investigation and follow up the matter. Barring any withdrawal by Members, there should be 24 Members taking part in this task. To my knowledge, the Subcommittee's proposed terms of reference are "to study issues arising from Lehman Brothers-related minibonds and structured financial products and to make recommendations where necessary". In this regard, I can envisage that the investigation to be conducted by the Subcommittee will definitely involve the regulation of the financial sector. After the investigation, some recommendations on regulation may be made to plug existing loopholes.

As regards the question of whether an independent complaint mechanism for financial businesses should be established now or whether a mechanism similar to that of a financial ombudsman should be established to handle issues such as disputes and compensation, I think decisions can only be made after thorough and extensive investigation, examination and consultation. Therefore, if this motion is passed today to establish such complaint mechanisms, I would think that it is a bit too early because I am afraid such efforts may not be vigorous and powerful enough.

The Subcommittee will surely make some recommendations after thorough investigation and analysis. I am also afraid that these recommendations may be very different from or even contradict with the content of the motion which may be passed today and thus great embarrassment may easily arise. I am also afraid that we will reverse our position by upholding opposite ideas in the future. Therefore, I very much hope that Honourable Members can handle today's motion seriously and cautiously.

During his visit to Hong Kong in July, Vice-President XI Jinping said that the team of officials of the SAR Government should work with collaborative efforts, and the executive, legislature and judiciary should understand, support and co-operate with each other. I consider his remark most relevant to our existing financial system. I think we had better not introduce any substantial reform to the financial system before the Subcommittee can come up with any conclusion or recommendation after the investigation. Of course, proper and timely enhancement has to be introduced so that all financial institutions and the Government can work in full co-operation or "work with collaborative efforts", as Vice-President XI Jinping put it. The Government must see to it that the two regulators complement each other instead of passing the buck. They should carry out effective regulation to avoid any supervisory or regulatory problem or flaw caused by human errors or dereliction of duty. They should work seriously to avoid tarnishing the image of Hong Kong and causing further unnecessary losses to investors.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, I speak in support of the original motion and the three amendments. While the original motion and the three amendments approach the existing problems in the financial sector mainly from the system and the framework, that is, from the perspective of hardware, I intend to, with my speech, approach the issue from the perspective of software and examine the current antagonism and conflicts among members of the public, customers and the banking industry and the grudges of the public and depositors against the Government's regulatory framework.

President, I think the existing three changes in financial services are worthy of our critical reflection. The first change is the change in banks' corporate culture and corporate ethics, as reflected in the changes over the past few decades.

In the past, banks used to encourage the public to save up for their future by advocating that savings bring riches and frugality can help build a home. I remember that a few decades ago banks would loan out or offer many money banks as gifts to customers to encourage saving up. However, banks nowadays encourage their depositors to spend before they earn. They would approach their depositors to issue to them credit cards and lend money to them. Banks no longer offer money banks as gifts, instead they will offer "turning shovels" for people to join the "speculation"¹. This is the change in corporate culture and ethics with far-reaching implications. This is the first change.

The second change is the change in the customer services provided by banks, which is also very obvious. In the past, there was a partnership of mutual reliance and mutual benefit between banks and their customers, and banks would make every effort to provide good services to their customers. Nowadays, however, the attitude adopted by banks towards their customers is no longer one of offering help in times of difficulties, but one of withdrawing their help at difficult times. Everyone knows that when credit facility is tight, banks will withdraw their credit lines and cease to offer any help to customers. Regarding small depositors, banks will try every means to get rid of them by, for example, reducing the number of branches. Another example is that when depositors' amount of deposits reaches a certain level, they will become privileged customers and be able to receive services without having to stand in lines in front of the counters in the bank; however, depositors with a smaller amount of deposits have to stand in long waiting lines. The waiting time is especially long and no special services will be offered to them. Worse still, if depositors' amount of deposits is below a certain level, they will be charged a management fee, which is a penalty in disguise. This is the current relationship between banks and their depositors. From this change, we can see that banks are in fact penalizing those small depositors. Banks' functions are beginning to change.

The third change is that there is a change in the image of banks on its customers. In the past, banks were, in the mind of customers, honest, reliable and safe and were able to provide a strong sense of security. Depositors would think that banks were trustworthy and reliable. What is the image of banks in the mind of the public and depositors nowadays? It is one of being hypocritical, money-minded, "deceitful" as well as untrustworthy. The fact that the Lehman

¹ Note: In Cantonese, "speculation" has the same pronunciation as "frying".

Brothers incident has given rise to a spate of problems shows that the image of banks in the mind of the public has already been seriously damaged.

Are these three changes, that is, the change in banks' corporate culture and corporate ethics, the change in the relationship between banks and their customers and the services provided, and the change of banks' image in the mind of the public, worthy of reflection by the regulators, the Government and all bankers? I think that in order to improve the financial services in Hong Kong, we must tackle the problem at root. We must sum up experiences and lessons learnt in relation to the software. Besides the regulatory system and mechanism, we should also make efforts on the software. What exactly should our banking services advocate? What should our banking services encourage?

Unlike other places where gambling is encouraged, Hong Kong only has horse racing. However, I hope the Secretary can think about whether we have already transformed banks and financial institutions into a large betting place without any casino? Now, all the people in town are engaging in "speculation" with a turning shovel in their hand, is that what we would like to advocate? We need only to think about it clearly to find that this is exactly the reality. Our banks have become lawful casinos and everybody is "speculating" at the same time. Is this in the interest of Hong Kong? I hope the Government and bankers who have heard my words will reflect hard and long about whether the financial sector of Hong Kong has become a large betting place. *(The buzzer sounded)* Thank you, President.

DR SAMSON TAM (in Cantonese): President, the Lehman Brothers Minibonds incident (Lehman Brothers incident) has convinced me that it is absolutely necessary to reform the financial regulatory regime, especially when roots of trouble have been planted under the regulatory framework of "two regulatory authorities for one industry" with unclear delineation of duties and powers. The so-called "two regulatory authorities for one industry" means that both the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC) are responsible for regulating the sale of financial products in Hong Kong. Actually, the duty of the SFC is to ensure adequate risk disclosure in the sales process of investment products, while the HKMA is responsible for regulating the investment and sales services provided by banks. As for the regulation of bank employees and the issuance of licences to staff providing investment product sales services to customers, it is undertaken by the SFC. Is this a sound

regulatory framework? Can such regulation keep pace with the development of financial products?

The HKMA and the SFC entered into a Memorandum of Understanding in late 2002 and reached an agreement on the implementation of the regulatory framework under the Securities and Futures Ordinance. Under the then regulatory regime, a licence issued by the SFC was required for the sale of investment products by bank employees, but the front-line regulation was undertaken by the HKMA. Insofar as the sale of investment products is concerned, the sale by bank employees was subject to the regulation of the HKMA, while the sale by staff of securities firms was subject to the regulation of the SFC. Obviously, bank employees were subject to a much lower degree of regulation than licensees of other financial services firms, which resulted in most complaints in the Lehman Brothers incident being related to banks. Therefore, when we discuss the reform of the financial regulators today, the first thing to do is to expeditiously tackle the problem of the unclear delineation of duties and powers between the HKMA and the SFC.

President, at the House Committee meeting on 13 October this year, the Financial Secretary said that "in the regulation of products similar to the Lehman Brothers Minibonds, the disclosure-based approach but not the merit based approach is still adopted in Hong Kong." Therefore, as long as the relevant institutions have made risk disclosure, the Government cannot bar the products from being launched onto the market, while intermediaries can sell such products after they have clearly stated the risks involved and learnt about investors' financial position and risk-bearing capacity. Can this mechanism really protect current investors? I think Members present must have received quite a number of complaints. Most of the complainants carried out their securities transactions through banks. Bankers kept saying that their sales were conducted with the relevant risk disclosure to their clients in accordance with statutory requirements. However, may I ask why, when regulators and a certain regulatory procedure are already in place in Hong Kong, there are still so many victims under the disclosure-based policy? Even if bank staff did really explain clearly to them, did they have adequate ability to clearly understand it? I believe there were a lot of problems in this.

Actually, with rapid technological development, there are more and more derivatives in the market, and the time between the launch and sale of derivatives is becoming shorter. With these complicated derivatives, including minibonds,

even if bank staff have disclosed the relevant information to customers, given that the information of such products is indeed more complicated, I believe even experienced stock market players or investors may not be able to understand the risks involved, not to mention the elderly or investment novices.

Earlier, Mr Anthony NEOH, former SFC Chairman, suggested in a media interview that Hong Kong should make reference to the practice adopted in some countries by making the SFC responsible for the comprehensive oversight of the product structures and distribution process of all securities, futures and financial derivatives, while making the HKMA only responsible for supervising balances with banks and the flow of Hong Kong currency. I believe that only with this can regulators have a clear delineation of duties and powers and perform their respective functions effectively. I believe the Government has to conduct the review in this direction because only when the role and duties of the HKMA and the SFC are clarified can the recurrence of incidents similar to the Lehman Brothers incident be avoided and the financial regulatory regime of Hong Kong be perfected, thereby enhancing the protection for the investing public.

President, I so submit.

MR IP WAI-MING (in Cantonese): President, the debate on "two regulatory authorities for one industry" first appeared in the 2000 amendment exercise of the Securities and Futures Ordinance. The expression "two regulatory authorities for one industry" refers to the fact that transactions in shares and other related products are subject to regulation by two different regulatory authorities.

If these products are sold in a securities firm, then they are regulated by the Securities and Futures Commission (SFC). But if they are marketed by the banks, then they are regulated by the Hong Kong Monetary Authority (HKMA). The bill of the abovementioned Ordinance was passed because at that time the banks made a lot of lobbying efforts as they wanted to clear the way for this lucrative business of selling securities products. Moreover, much was also done by the Government to push for the passage of the Bill.

Although the banks are subject to the same set of guidelines as the securities firms when they sell securities products, the question is, the duty of the SFC is to protect investors, whereas the HKMA is to oversee the banks in matters like their capital and operation. There is a difference in the perspectives and that

explains the results. The approach taken by the HKMA with respect to practices in selling securities products depends very much on self-regulation by the banks. In other words, under this system of "two regulatory authorities", there is a difference in the extent of regulation between the selling of securities products by banks and the kind of regulation that traders in a securities firm are subject to.

Generally speaking, a commercial bank is not an investment bank, and the kind of business most of these commercial banks engage in is of a more conservative nature, but due to this difference in regulation, as many Honourable colleagues have said, the banks have become casinos. And as the banks want to get most out of this situation, the management therefore sets a lot of targets and requires the front-line staff to sell securities products. Sometimes when these front-line staff have to meet the quota, they would even buy a considerable amount of such products. So in this Lehman Brothers incident, many of the bank staff have become victims as well. This reflects the extent of the problem.

When the same kind of business is subject to the regulation of different authorities, the result is inevitably the emergence of some regulation problems or grey areas. In the end, members of the public will sustain considerable losses. To remedy the situation, we think that there are many possible solutions. Such kind of business may come under the regulation of one single financial regulator. The other possibility is to have the SFC oversee the trading of securities and other related products. And the HKMA should concentrate only on the regulation of the liquidity of banks. But how can this be put into practice? I would think that the issue should be discussed by society as a whole and views should be given on that.

The issue of financial products should be overseen by the SFC and it should also oversee the brokers, and the issue and sale of bonds. However, as there are so many kinds of financial products, the SFC does not oversee financial products direct, but it would only require the issuing institutions to disclose the risks involved to potential investors.

This practice of risk disclosure may be valuable reference for those old hands in the stock market who have the knowledge and experience in investment. But for the ordinary investors, they may only rely on the promotional leaflets they read and the ratings given by international institutions before making a decision. But is the information disclosed in these leaflets enough to help them make a

decision? And what about the conduct of these rating institutions and can they give the small investors enough information?

A huge number of people in Hong Kong are investors and they can be old hands or novices, and they may be grandpas and grannies. The SFC therefore has a great responsibility given this wide spectrum of investors. Prof K C CHAN, Secretary for Financial Services and the Treasury, said that there would be matching actions on top of risk disclosure. In other words, the authorities have decided that this practice of risk disclosure is not to be changed and no consideration will be given to imposing direct regulation on financial products. We think that this mentality is too closed. The authorities should undertake a thorough examination of the fundamental issue, and that is, whether risk disclosure is appropriate in Hong Kong, especially when most of the investors in Hong Kong are small investors or retail investors. The regulatory bodies may need to study the question of whether, in addition to direct regulation of the products, the related financial institutions should also be required to provide information in a language easily understood by the common people about the extent of the risks carried by the products.

In this Lehman Brothers incident, the Mandatory Provident Fund (MPF) schemes are not affected because there are restrictions imposed by the MPF Schemes Authority on fund investments and investments based on loans or leverage are prohibited. Besides, ranking labels are attached to every fund in MPF schemes and the contents of investments made in the funds are easily understood. Employees can decide on the risks that they can bear. The experience of the MPF tells us that regulation will prevent more people from becoming victims.

The SFC should enhance its regulation by giving clear ratings to these products so that investors can have something to refer to when they choose investment products. The design and explanations of these ratings should also be made in plain language as well.

After the Lehman Brothers incident has been discovered, front-line bank staff have become scapegoats. But the management pretends that nothing has happened. Hence the pressure on these front-line staff is tremendous. We therefore agree that a permanent institution for handling complaints about financial matters be set up to provide a one-stop complaint and mediation service.

Lastly, in the Lehman Brothers incident on this occasion, we can see many officials in financial matters and even some people from the banks face demands from the people with arrogance and refuse to admit their faults. We hope they will know that they cannot take it for granted that the citizens will respect the professionals. If these professionals cannot face the citizens and gain their trust, I do not think there can be any future for the professions concerned. We therefore hope that these finance officials and professionals can come down from their high horse, put aside their arrogance and admit their mistakes when they have made them. Only by doing so can we hope that mistakes can be corrected and the development of Hong Kong as a financial centre can be enabled. *(The buzzer sounded)*

PRESIDENT (in Cantonese): Mr IP, speaking time is up.

MR IP WAI-MING (in Cantonese): Thank you, President.

MS EMILY LAU (in Cantonese): President, I speak in support of the motion of Mr Ronny TONG. I agree very much with what he has said, that the authorities should conduct a comprehensive review and study of the existing several major financial regulators to ascertain if there is any need to rationalize and enhance their regulatory roles, functions and resources, and to identify some improvement measures.

President, as a matter of fact, many Members who speak today share a very similar view. This Council wants to strike home a clear message to the authorities and help them undertake a review as soon as possible. This is because I am sure many people are waiting in exasperation. But I also know that the waves of the financial tsunami have pounded on the shores all over the world. President, we have no idea when it will ever end. So many countries may be discussing the question of how reform is to be introduced. Since the waves have not spent their force, many people are just running along the coast, not knowing whether they should run to the top of a hill. Many people, including the people of Hong Kong, are worried that they will be swept away by the tsunami before they can make it to the hill. Therefore, at this time of billowing waves and dire distress, I appreciate that the authorities have a lot of

things to do and they include how to cope with the inquiry of the Subcommittee on the Lehman Brothers incident which I would call a monstrosity.

Having said that, this is still something that has to be done. President, this is because not doing it is not an option. I hope that this Council, especially the relevant panel, can lend its full support to the authorities in this and that a truly comprehensive review can be conducted and views from all parties concerned can be heard. This is because, as Alan GREENSPAN has said, there has been too much liberty given and too much trust placed in these people, thinking that they would help other people because it is in their own interest to do so. But what we can see now is that one bank after another in the United States have crumbled and fallen apart.

President, I wish to focus my speech on the Hong Kong Monetary Authority (HKMA) because many other Honourable colleagues have already talked about other aspects. As they have said, the HKMA on this occasion, President, I mean the Lehman Brothers incident, has been behaving in a most shocking manner to Members. And it has sent members of the public wailing and crying, and going frantically to different places, staging protests in front of one bank after the other, thus tarnishing our reputation as an international financial centre. Last week, people from the HKMA briefed us and said that more than 18 000 complaints had been received. President, from whatever angle one would look at it, this is very shocking indeed, for there are 18 000 cases. There seems to be no end to this number and it could be more than 20 000 or even more. How could this have happened? Why have things come to this pass?

We are not conducting a review of the Lehman Brothers incident today and we will form a subcommittee on that anyway. However, President, if you look at the administrative framework of the HKMA, you will find that it is something that resembles nothing at all. For many years the Democratic Party has been calling for the enactment of a law to regulate and clear things up, but the Government refuses to do so. There is an official in charge of financial matters, he is the Chief Executive of the HKMA, Joseph YAM. I raised a question today and it was question number 14. My question is, as we have heard, he is more than 61 years old now and it seems that he is to retire in September next year. My question is whether or not this is true and if so, what are the criteria to be used to decide on his successor. Since it is said that the law has given the Financial Secretary great flexibility in handling such matters, does this practice

have any transparency and accountability? Has any reference been made to the economies of other countries on what should be done in making similar appointments?

President, the length of the reply given is less than 10 lines. What are the reasons cited? He says that the greatest possible flexibility exists and so there is no need to tell me anything. In other words, he can do whatever he likes. He says, when appointing someone or whatever, reference will be made to the view of the Governance Sub-committee of the HKMA. Then, when is he going to retire? Is there any retirement age for him at all? If Joseph YAM says tomorrow that he quits and dumps an unknown number of hundreds of billion dollars, then what is the person you will hire and on the basis of what kind of conditions of service you will hire such a person? President, for so many years, when we raised such questions in the Council, the authorities would refuse to say anything. Today, they just gave me this piece of paper and took it as a reply. Would an international financial centre like Hong Kong behave in such a sloppy manner?

Besides, he is the only head in the HKMA and there is no board of directors there which, as the authorities say, can deliver good governance and whose chairman is an independent non-official. Back in those days when it was suggested that the governance role of the SFC should be split — President, you were a member of the SFC then — and the suggestion met a flat denial at that time. It would not do if there is only an executive chairman. There should be a non-executive chairman, plus a chief executive. Although it was put so nicely at that time, when people asked him why this practice was not applied to the HKMA, he said that there was no such need. President, I asked him whether or not he had taken reference of the practice in other places. He said that the laws, political situation, historical background and institutions here were quite different from those in other places. He said that the arrangements they made were proven and they suited the situation in Hong Kong. This was what the HKMA said. When it was said that the two posts in the SFC should be split, then it said that that was the best form of governance. So there must be a board of directors, a non-executive chairman and a chief executive. Then another post that we should discuss is related to the Office of the Commissioner of Insurance. President, that Office is not independent. And it is said that something must be done about it. It can be said that this will come very soon. I hope that the authorities can really do something as soon as possible.

The Acting Secretary said earlier that the capital reserves of our banks are adequate and they are financially sound. This is true and it is so up to now and I hope it will still be true in future. However, President, I have no idea when a bank will fall. Many Honourable colleagues asked about that on that day. Has everything been disclosed? President, even if the banks have so much money, the authorities are trying every way and means to make the banks inundate with funds. The reason for the authorities doing that is not to make the banks inundate with funds but to make the banks fulfil their responsibility of helping the companies. But all the small and medium enterprises (SMEs) are still airing great grievances. So on Monday I asked the Chairman of our Panel on Commerce and Industry to call a special meeting and invite all the banks and SMEs to come here — I am glad that Dr David LI is here — to explain, when the Government has offered such great help to the banks and when the banks have adequate capital and when they are financially sound, why they can afford to do nothing when these people are struggling for survival?

Hence, President, I think a review of our existing framework must be undertaken. I hope the authorities should do something quickly after they have heard Members' views, and then they should come to this Council to offer explanations. I so submit.

MR PAUL CHAN (in Cantonese): President, basically I agree with the original motion of "Reforming Financial Regulators" proposed by Mr Ronny TONG and the amendments proposed by Mr Albert HO and Ms Miriam LAU respectively. With respect to the amendment proposed by Mr CHAN Kam-lam, I have very great reservations about one of the points proposed by him. I will explain that later on.

I wish to point out in my speech mainly that the major principle and direction of conducting a review of regulation of the financial sector should be from a macro and comprehensive perspective and the approach must not rest at the level of banks selling financial and investment products to retail customers. If we are to conduct a review, we will need to make holistic considerations.

The incident of the Lehman Brothers Minibonds has sounded an alarm and howled a wake-up call powerfully at the officials and top echelons in the regulatory authorities indulging in the fantasy of Hong Kong being the most advanced financial centre in Asia. I hope that when the Government conducts a

review of regulation of the financial sector in the future, it can adopt a macro perspective and see farther ahead. Apart from carrying out this inquest, it has to plan well ahead and prevent the recurrence of the similar events in future. This will lay a more solid foundation for the future development of the financial markets here.

A review of the regulation of the financial sector must include the vetting and approval, and regulation of the marketing of stocks, securities, investment products, amalgamated investment schemes, and so on. Such a review must cover not only the sale of investment products by banks but also the securities firms.

Among those regulators whose monitoring role should be reviewed, both the original motion and the various amendments have not mentioned the Stock Exchange of Hong Kong (SEHK). I wish to add a few remarks on the role played by the SEHK. As we know, the SEHK still holds the power to approve listing applications. It is the main body regulating listed companies in Hong Kong and it is currently executing a significant function as a public regulator. However, the SEHK is by itself also a listed company and it follows that it has a strong incentive to make profits from its commercial operation. It has long been an issue of contention of whether or not the SEHK should continue to hold the power to approve listing applications. If we are to conduct a genuine review of the regulation of the financial sector, I am sure this issue should be revisited.

Another related issue is whether or not the Listing Rules should be given a statutory status. This was a topic discussed a year ago. And it was also examined in the Panel on Financial Services of this Council during the last term. If a full-scale review of regulation of the financial sector is to be undertaken, I think this topic must be included in our consideration. Irrespective of whether a statutory status is given to the Listing Rules at the end of the day, I think that the clauses in the Listing Rules should be studied to see if they are sound enough, whether they are in line with the latest developments and whether there is still room for improvement.

Great amounts of money are at stake in the financial markets and there are great temptations to exploit the loopholes and grey areas to further one's own interest. Is the form and philosophy of self-regulation which has been well-accepted still valid now? I think that the Government should give a fresh look into the code governing the conduct of listed companies and their staff

members. Efforts should be made to tighten and clearly define certain points in the code and see which parts in it should be given legal effect to enhance their powers in oversight and enforcement. Also, careful considerations should be given to which aspects should be regulated by the code commonly observed in the industry.

As for the disclosure-based principle, there may not be a need to overturn it in its entirety. But a review should be conducted to see what should be disclosed and the details of such disclosure. Other matching measures should be adopted and as many Honourable colleagues have said, efforts should be made to ensure that certain high-risk and complicated products will not be sold to people who should not buy them.

Now I would like to talk about what I think of the amendments. Mr CHAN Kam-lam mentions "an independent complaint mechanism for financial businesses" and Mr Albert HO talks about a similar suggestion of "an independent financial ombudsman". Both ideas are along the same line. As far as I know, such mechanisms exist in Singapore and the United Kingdom and they are established by law. Actually, Dr Margaret NG in her speech made earlier in the debate on the motion proposed by Mr KAM Nai-wai on the Lehman Brothers incident also gave a detailed account of the proposal made by the Council to the Government many years ago but which was subsequently rejected by the Government. I think it is time the Government reviewed its decision made previously.

Mr CHAN Kam-lam has also proposed a one-stop dispute mediation service. As far as I know, such a mechanism exists in Britain and Singapore as well. I already spoke on such kind of mechanism before in some meetings and I would not repeat my points here. But what I wish to say is that Hong Kong is really lagging behind others in terms of matching facilitates in the financial industry. We cannot catch up with the development of financial products and we cannot fulfil the role required of us in trying to position ourselves as the most advanced financial centre in Asia. This is a disgrace to the people of Hong Kong. I hope the Government and the regulators can learn a good lesson from this experience and strive to do better.

As for the reference in Mr CHAN Kam-lam's amendment to "empowering the regulators to instruct defaulting financial institutions to compensate their clients", this is a point about which I have reservations. It is because a fine is

often imposed in the disciplinary actions taken by the regulators. But the suggestion of instructing the financial institutions to make compensation worries me. It is because the established practice in Hong Kong is to leave the question of determining the liability and compensation to the Judiciary, so would the proposal made in the amendment run counter to this basic principle upheld by us? In view of these considerations, I cannot support the amendment.

President, I so submit.

MS STARRY LEE (in Cantonese): President, Mr CHAN Kam-lam has expressed the views of the DAB on the motion "Reforming Financial Regulators" earlier.

Now I would like to talk about what I think of the speeches made by Honourable colleagues and the response by the Under Secretary. The Under Secretary said earlier that the financial regulators have four objectives but after the Lehman Brothers incident, people all know that the regulators are totally unable to attain the objective of protecting investors. After hearing this response by the Under Secretary, I know that insofar as investor protection is concerned, the financial regulators now adopt a basic approach of overseeing the intermediaries, not the products. As for products, supervision is effected through a disclosure-based approach. To put it simply, this means that the investors should decide whether or not to make an investment based on the sufficient disclosure of information.

I do not think there is anything wrong with this idea. But in Hong Kong which is such a unique place, and also elsewhere in the world, there are many complicated financial products available and so we should rethink whether or not this disclosure-based approach and overseeing only the intermediaries are enough in protecting the small investors in Hong Kong. I wish to emphasize that it is the small investors, not the professional investors.

The Lehman Brothers incident has left a strong impression on me. In the past, I used to think that the packaging industry in Japan was awesome. When we go to Japan to travel, we would buy a lot of products and they are meticulously packaged and sold on the market. Often when we shop in Japan, we would be delighted because the packaging is superb. The article I am

holding in my hand now cannot be considered very beautiful. But now I have a feeling that the packaging done by investment banks in the United States is even more awesome, for after some packaging by the investment banks there, these minibonds, in fact, toxic bonds of subprime mortgages and those products linked to some famous commercial institutions, have made many investors think that they are very reliable products. This accounts for the minibonds incident which has caused a great political uproar in Hong Kong.

Apart from minibonds, as I said in this Council sometime ago, there are in fact many of this kind of sugar-coated poisons in Hong Kong and all over the world. Apart from the toxic bonds of subprime mortgages which are sold after repackaging, we learnt that yesterday there was a possibility of a credit card storm in the United States. All these are investment products carefully packaged and beautifully dressed by the investment banks and sold all over the world. If the governments of various countries cannot regulate such products promptly, I am afraid there would be greater economic upheavals to come.

Many Honourable colleagues have said and I agree very much with them that although gambling is not encouraged in Hong Kong, we in fact have a big casino opened for business every day. It is because if we read the financial pages of the newspapers and look at the financial products there, such as the callable bull/bear contracts and covered warrants, and so on, we will find that they are very popular gambling tools. This is because there is no regulation of these in the market, and by the Government and the regulators. When added to the fact that many investors take part in the trading of these products without any clear understanding of them, they are likely to incur substantial losses which should otherwise be avoided actually.

I am sure that after the Lehman Brothers incident, and given the remarks made by Alan GREENSPAN on his reservations about the absence of regulation of the investment banks in the past with respect to derivatives and that a review of this practice should be made, I think the Government should really try to address this problem in the review to be taken this time around.

Now I wish to respond to what Mr Paul CHAN has said about the amendment proposed by Mr CHAN Kam-lam. This amendment from the DAB is proposed exactly because we have seen the loopholes in regulation with respect to the undesirable sales practices of the banks and some financial institutions.

As we can see, many investors of the Lehman Brothers products have run about to make complaints to places like the HKMA, the SFC, and the Consumer Council in these two months. They are worried that even if such undesirable sales practices are proven, owing to the existing laws and institutions, at most what they can ask for is a fine for the banks. Put simply, the banks cannot be asked to compensate the investors. This is precisely the kind of loophole which the investors think exists in the present system.

When an instruction for compensation can be given and can an instruction be given every time on every case of proven undesirable sales practice? In this regard, I think Members may discuss it in the coming review. However, I think that if the regulators are unable to give such instructions or unable to require the banks which have misled the small investors to compensate for their losses, then the protection given to the investors is far from being adequate. So this is why the DAB has proposed this amendment.

We very much support one thing which was also mentioned by other Members and that is, there should be an independent complaint mechanism to handle complaints about financial products. The Lehman Brothers incident has made us see that the investors have no confidence in institutions which claim that they are conducting an investigation into themselves. So many problems have been caused. If there is no such independent regulatory body in future, I am sure that it would be very hard to restore the confidence of small investors in the financial system of Hong Kong.

President, I so submit.

MR FREDERICK FUNG (in Cantonese): President, the financial tsunami triggered off by the collapse of Lehman Brothers has swept across the whole world. It shakes the very foundation of our financial system and exposes the lack of effective supervision in it. Financial enterprises are only concerned about their short-term growth to the total neglect of risks. From the outset, the banks acted on greed and recklessly approved loans, resulting in massive subprime mortgages. Then a large number of finance gurus devised heaps of amazingly complicated financial derivatives out of sheer avarice. These derivatives are illegible to the layman, grossly out of touch with the real economy and backed up by economic bubbles and virtual performance growth. These

investment products based on problematic assets exploded with the downturn of the property market. The chain effect so caused has crumbled the related financial institutions, shaken the entire financial market and undermined its stability.

People have come to realize the fundamental flaw of the free economy which emphasizes minimal regulation. People are mistaken in thinking that the market is capable of self-regulation and self-perfection. They think that banks in particular will avoid lending money recklessly for the sake of their interest. But the fact is far from what the people think and they have no idea that the greed of the financial institutions has reached such pathological proportions that they will employ every means possible.

Governments of various countries seem to have woken up from this dream of a *laissez-faire* economy. The lesson to be learnt and the price to be paid is painful and huge. These countries use trillions of dollars from the public coffers in a desperate attempt to bail out their ailing banks and enterprises. They increase public spending to arrest the fall of their sagging economy to a great slump. The G20 meeting held in Washington earlier and the just concluded APEC summit all highlighted the importance of reform in the financial system and strengthening regulation.

President, the financial tsunami serves to expose the vulnerability of the regulatory mechanism in Hong Kong and the tilting towards financial institutions to the neglect of the interest of small investors and ordinary members of the public. For example, the disclosure-based regulatory system has led to the prevalence of toxic financial derivatives sprawling all over the market, hence sowing the seeds of destruction. Currently, the relevant authorities only require that intermediaries selling financial products to tell the investors the risks involved and that consideration must be given to the financial situation of clients and their ability to bear the risks, and so on, so as to ensure that the products are sold to the right persons. But nothing is done to oversee the suitability of the sale of these products in the market.

Besides, under the "two regulatory authorities for one industry" mode, the sale of financial derivatives by banks is not subject to the regulation of the Securities and Futures Commission (SFC). On the other hand, the Hong Kong Monetary Authority (HKMA) which is tasked with regulating the banks is only concerned about the financial health of the banks. Since selling financial

products can bring profits to the banks, the HKMA is happy to see that, but it has neglected its duty of overseeing the conduct of banks. Banks which have access to the information of a huge number of accounts will of course seize the opportunity and push their front-line staff to sell these complicated derivatives to the savings account clients in a bid to earn lucrative commissions. Such is an income in addition to the conventional practice of the banks to earn income from the difference in interest rates. In the end, this has led to a large number of victims.

President, reform must be introduced. This disclosure-based regulatory system must be reformed. The disclosure of risks must go hand in hand with the regulator also making an assessment as to whether these financial products are suitable for sale in the market and at the retail level, and whether they can be sold to ordinary members of the public. Reform must be made of this "two regulatory authorities for one industry" mode. The authorities should consider bringing the trading of all financial products under the same regulator. Of course, the question of whether banks should sell such financial derivatives should also be considered. The sale of these products cannot be carried out in a black-box operation as it used to be by the banks. It must be made more transparent. As an example, we strongly suggest that these financial derivatives must be traded through the Stock Exchange of Hong Kong (SEHK). With the regulatory mechanism of the SEHK, there can be enhanced risk management and protection of the rights and interests of the two parties involved in transactions.

There is also a need to establish a complaint mechanism for the financial sector to handle disputes and compensation arrangements between investors and financial institutions. This will lead to more effective protection of the rights and interests of investors.

President, the financial markets are becoming increasingly complicated. It is hard to separate the relationship between the investment market and the banking and insurance sectors. Should the authorities not consider setting up a cross-sector regulatory body to effect comprehensive and effective regulation of the financial markets as a whole? In addition, the CITIC Pacific incident has also exposed problems in the internal governance and transparency of enterprises. The Government must review how regulation can be imposed on companies trading products like the accumulator in which investors are like having a game on the gambling table with the banks. Regulation will protect the interests of the small shareholders.

This financial tsunami has also exposed defects in the market. Hence there must be adjustments to the principle of a *laissez-faire* free market economy and the concept of "big market, small government". I hope the Government can really hear the opinions expressed by us. For me I have raised related questions to the Chief Executive in this Chamber many times, but the Chief Executive still adheres to his big market idea. There is a need to review this big market principle. President, I have two suggestions. First, there must be an effective and powerful regulatory system to tie in with the efforts in the promotion of a free market. For if not, chances are we will make the same mistake of believing in the omnipotence of the free market and neglecting the influence of avarice in the market. Second, we must also consider certain issues that are not properly taken care of by the market. Since I will propose a motion on this topic next week, I would like to talk about it in detail then.

With these remarks, President, I support the original motion and all the amendments.

DR DAVID LI: Mr President, the global financial crisis has revealed significant weaknesses in the regulation of international finance.

The main culprit in the current financial turmoil is the credit default swap market, which has been, until now, largely unregulated.

Most credit default swap transactions are contracted in private between a willing buyer and a willing seller. Even today, there is no central clearing house; no sure tally of the total value of credit default swaps outstanding. Each contract has its own unique features and characteristics.

The international community is only now coming to grips with the size of the credit default swap market and the potential global exposure.

The Bank for International Settlements reported that the notional amount of outstanding credit default swaps rose from US\$13.9 trillion in December 2005 to US\$28.9 trillion in December 2006 and US\$42.6 trillion in June 2007.

According to a recent study by FBR Capital Markets, it is estimated that the total notional value of outstanding credit default swaps stands at some US\$42 trillion to US\$47 trillion. Other estimates run as high as US\$55 trillion.

This represents approximately seven to nine times the value of outstanding corporate bonds worldwide, the total value of which amounts to only US\$6 trillion.

The global financial system is interlinked through the credit default swap market. It is a huge market.

As the credit default swap market is largely unregulated, it lacks transparency. The less transparent a market is, the more havoc it will create. Without greater transparency, regulators and investors alike are unable to assess risk.

The ability to assess risk is the foundation of modern financial system. For the banking system, the Basel Two framework provides the most sophisticated and complete implementation of a risk-based regulation.

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

Under the guidance of the Hong Kong Monetary Authority, Hong Kong is at the forefront of implementing the Basel Two framework. Banks in Hong Kong are far ahead of their peers in the United States and Europe in meeting the Basel Two requirements.

The Basel Two framework requires banks to make substantial investments in their management processes in order to upgrade their risk management systems. This has improved local banks' ability to assess different kinds of risk throughout their organizations, and assign capital to those risks.

For example, banks no longer simply focus on the risk that a borrower might default, the so-called credit risk. They also focus on areas such as operational risk, market risk and many other risks. The former includes the risk of loss arising from failed internal or external processes, people and systems, or from external events. Such incidents might include fraud, IT system malfunction or money laundering scandal. The latter includes the potential for material changes in the financial markets.

The health of the local banking industry, in contrast to the condition of banks elsewhere, is ample proof of the effectiveness of the measures in place to protect the local banking system.

Deputy President, the course of action outlined in the current motion would be a worthwhile endeavour under normal circumstances. It has been some five years since the passage of the Securities and Futures Ordinance. A review of the regulatory regime would normally be in order.

However, in the current environment, the suggestion is akin to listening to Nero fiddle while Rome burns.

I would suggest that it is far more important for the Government to concern itself with the global effort to restructure the international regulatory environment.

As a leading international financial centre and the aspiring international financial centre for our Country, Hong Kong — together with the Central Authorities — must play an active role in the process to establish a new international regulatory order.

One way to provide more visibility for credit default swap positions would be to set up a central clearing house where they could be publicly traded like options or commodity futures.

Frankly speaking, if we are unable to assess risk, we do not have a functioning regulatory system.

We must not let such important work take place without the involvement of all international players. A global effort is essential if we are to again be in a position to make a realistic assessment of financial risk.

Nothing we do here in Hong Kong will protect us if we do not first address the global regulatory issues.

Thank you.

PROF PATRICK LAU (in Cantonese): Deputy President, the problems caused by the financial tsunami like the Lehman Brothers incident have served to expose the loopholes of the regulatory system in the financial sector in Hong Kong, hence there is a genuine need for reform.

Many Members have said that under the "two regulatory authorities for one industry" system, the Hong Kong Monetary Authority (HKMA) will only monitor the banks' service for trading of investment products, but it will not care about whether they are suitable for sale to the public. On the other hand, when vetting and approving the prospectuses and advertisements of the sale of financial products, the Securities and Futures Commission (SFC) is only responsible for deciding whether the information given is clear enough and the disclosure of risks involved. As to the suitability of the potential clients to invest in these products, it is no concern of the SFC.

In addition, if problems appear in the securities operations of a bank, then the HKMA will refer the case to the SFC. When the SFC handles the case concerned, it will also consult the HKMA. Given such circumstances, we will know why the banks in Hong Kong could have sold structured financial products and derivatives to small investors when these products are barred from direct sale to ordinary members of the public in overseas countries on account of their complexity and high risk involved.

So I would agree that the Government should undertake a full-scale review and study as soon as possible on how best the roles and functions of the HKMA, SFC, the Office of the Commissioner of Insurance and the Mandatory Provident Fund Schemes Authority can be improved in the regulation of the financial sector. However, some people from the sector have told me that if another framework is to be established to regulate the existing regulators, it may not necessarily be helpful to solving the problems of the existing system. Conversely, it may make the framework and the procedures more complicated. The Government should therefore target the root of the problem and introduce reform of a structural nature. Only by doing so can a long-term solution be found. Also, consideration should be given to whether or not requirements should be imposed to prohibit retail banks from selling all kinds of investment products and whether or not potential investors can only trade in such products at certain banks specializing in investment business.

The sector wants to remind Members that while regulation must be stringent, we must guard against excessive regulation. This is especially the case because a free economic environment is essential to our position as an international financial centre. I hope Members will not forget that over-regulation will only backfire. We in the construction sector are most able to sense the disadvantages of over-regulation.

As for the disclosure-based regulatory system, I also think that it should be reviewed. The reason is that there is an amazingly wide range of financial products available and their complexity is incomprehensible even to industry players. Therefore, it is not sufficient to rely on the existing framework and criteria to assess and disclose the real risks of a certain product. As we often say, before the Lehman Brothers incident happened, its products were given the highest ranking of AAA by those so-called authoritative rating institutions which also gave unconditional and irrevocable guarantee to these financial products. Just imagine, had there been no problems with our existing "disclosure-based" regulatory system, then why was it unable to disclose the real risks of the Lehman Brothers Minibonds?

Deputy President, as a matter of fact, when we consulted the industry about this motion, many people said that the international rating institutions that I have just mentioned are actually from the same bunch of people who have raided and plundered in many different markets worldwide. They belong to the same group of predators. As long as we rely on the ratings given by these institutions, we are prone to fall into the trap of incidents like the minibonds.

Since Hong Kong is an international financial centre and since we have the backup of our Motherland and we are sitting on huge foreign exchange reserves, plus we have got well-experienced people in the financial sector, why do we not set up our own rating agencies? After all, with the minibond incident, the existing international finance rating institutions have all lost their credibility. Moreover, the financial tsunami proves that amid globalization, if we do not forego our reliance on just one or two financial centres and take active steps to set up a financial centre of our own, one in which we have greater say, then this kind of knock-on disaster will happen again. The retirement funds of the people of Hong Kong are placed in the financial markets and as we see the wicked deeds of these financial predators, if our Government is one with vision, willing to take up responsibility and make commitment, then it must give serious thoughts to whether or not to set up another financial centre and take the task of managing the investment of the retirement funds into its own hands.

Deputy President, President HU Jintao made it clear when attending the G20 summit that we should strengthen our collaboration with international financial regulators and strive to make the international regulatory system

healthy. It is my hope and wish that before more financial problems appear, the Government can introduce reforms to consolidate our position as a financial centre and protect the assets of the people.

I so submit. Thank you, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, the American writer Richard BITNER is himself the founder of a company engaged in the subprime mortgage business. He once wrote a book entitled *Greed, Fraud & Ignorance: A Subprime Insider's Look at the Mortgage Collapse*. He points out that the subprime mortgage crisis in the United States originated from the insatiable greed and fraud of the Wall Street big investment firms. So in another of his works entitled *Confessions of a Subprime Lender* he confessed and apologized for what he had done. He called those in the subprime mortgage business drug dealers. In my opinion, the Lehman Brothers Minibonds incident in Hong Kong can also be attributed to the greed of banks. The financial monitoring authorities have not fulfilled their duty and at least for some time, they must have had one eye closed.

Deputy President, with respect to the Lehman Brothers cases, every week I have to meet with more than 10 victims on average. Today I got a letter addressed to me from them and it is about how they said that the banks had passed a death sentence on them. I have personally accompanied many of these victims to different banks. I offered my assistance in mediation and conciliation. When I read this letter today, my heart just sank. One of these victims had tried to commit suicide, so I decided to help him. Our opponent is a big international bank. Last week I went to the bank with him. The bank gave a cold reply, saying that it would send a letter to him. He was in great anxiety, worried if this would mean the end of the world for him. At that time we tried to comfort him, saying that that was an investigation carried out by the bank on its own and if he was really not happy with it, he should have a chance to lodge an appeal. At that time, I had already found a friend of mine who is a lawyer and he was willing to help him free of charge. Actually, more than one month has passed since both parties have engaged in exchanges. That letter was written in English, in formal legal language. The victim was only a Secondary Five graduate and he did not really understand the contents of that letter. I appreciated his feelings and I felt sorry for him. I really hoped that the bank

could at least offer compensation at half of the money paid and I thought he would be happy with that amount.

Last Saturday, I met with another victim. I thought he was on the verge of a mental collapse. After making an analysis of his case calmly, I said to him that he was perhaps also partly at fault. Then he said that if he could get back 10% to 20%, he would be happy. Why does he have to make so much effort to fight even when he can be happy with getting 20% of his money? He explained that he was not just unhappy with the compensation amount, but he also felt that he had been done a great injustice. All these people have shown a problem of confidence failure. When these people have to sign papers in my office, they would let me read the papers first before they sign.

I have received a total of 50 people personally over the past two months. They all had a problem of confidence failure. What we should be doing now to remedy things is not just reasonable compensation in those cases which have genuine justifications, but also to heal the hearts of these people — namely, their confidence in the banks in Hong Kong. Actually, I would like very much to say to Dr David LI that we all used to have great faith and hope in the banking sector in Hong Kong, but what can we do now to make these victims truly feel convinced? This is not a problem that can be solved by money alone. So what can we do to restore the faith of these people in the banking sector in Hong Kong? This is something that makes feel sad as well.

In this subprime mortgage crisis in the United States, even Alan GREENSPAN, the former chief of the Federal Reserve who was hailed as the god of the finance world, also gathered enough courage to admit his fault. To make an apology is actually not such a difficult thing after all. An apology extended may serve to put half of these people's heart at rest and before they are on the verge of a mental collapse or breakdown, an apology offered may instil a tiny ray of hope in these people for the system. This is not purely a problem of hardware as such. What we have to face now is a confidence crisis. I hope those people holding the reins of power in the Hong Kong Government and also those from the top management of the banks will really be bold enough to consider this problem.

I have said many times on various occasions, including before the media, that we need to walk with three legs. For one thing, the Legislative Council has

begun work in conducting an inquiry. And for another, there is the complaint mechanism and investigation mechanism that we are discussing today. The progress of cases in which we have offered assistance is actually very slow and only some 100 cases have received some form of subsidy such that the so-called mediation can proceed, and the kind of arbitration allowed is only arbitration in writing. When things have become like this, I do not think many victims would feel convinced.

Actually, many victims told me that they were willing to take part in a collective mediation. So I approached the Hong Kong Mediation Centre in my personal capacity. Some very sympathetic persons in charge of the Centre told me that they were prepared to use some more convenient ways to conduct collective mediation by referring to types of cases for some of those victims whose cases have not been recommended. I hope that people from all quarters who wish to help these victims can be good facilitators. They should comfort these victims so that they will not get burnt out physically and mentally and that things will not deteriorate to a state beyond remedy and repair.

As for the motion today, I support the original motion moved by Mr Ronny TONG. Actually, I am also in favour of the amendment by Mr Albert HO, that is, about the introduction of an independent one-stop mediation service. But as for the kind of compensation made by way of an instruction as Mr CHAN Kam-lam has proposed, I would have reservation about it because this is in fact usurping the role played by an arbitration centre and it is also taking the law into one's own hands. Having said that, I think that the direction pointed out by Mr CHAN Kam-lam is worthy of consideration. The reason is that there is a large number of victims who total about some 30 000 to some 40 000 and this may be too much of a burden for the arbitration centre or the Judiciary. So with respect to this proposal, I remain open about it but I do not think this should merit our support right now. With respect to this direction, I am willing to support the motion and the amendments, for the reason that they do carry great significance. I also reiterate (*The buzzer sounded*) that I hope the banks can make contributions to set up a contingency fund. Thank you.

DEPUTY PRESIDENT (in Cantonese): Dr Priscilla LEUNG, your speaking time is up. Please sit down.

DR MARGARET NG (in Cantonese): Deputy President, the problems mentioned by Honourable colleagues in their speeches today are in no way strange to us. They were discussed some six or seven years ago and at that time the discussion was on the significant securities law. In such discussions on this law, I cast my vote against it, but it was not because of the reasons cited by Mr CHIM Pui-chung.

At that time, we also discussed whether or not there was any deficiency with "two regulatory authorities for one industry". Would "one bank, two regulators" be better? By that it was meant that the business run by a bank was regulated by two different regulatory authorities. We also discussed whether or not two different yardsticks would be adopted by two different regulators.

At that time, what the greatest concern of the Bills Committee was how the rights and interests of small investors and consumers could be protected. The role supposed to be played by the Hong Kong Monetary Authority (HKMA) is to assure the stability of the banking system and it has nothing to do with protecting the rights and interests of consumers. This made us feel very worried. We had considered whether or not the disclosure-based approach should be the mainstay and whether or not products should be regulated. We even went into details like whether or not the trading of derivatives should be regulated by law or should regulation be relaxed so that there could be greater liberty in the financial sector.

At that time, we spent much time on discussion and making study tours. And at about the same time, there was an even more significant law on securities in the United Kingdom. They also spent a lot of time on that. Therefore, we had to make a choice then. We made a decision and it was based on the prevailing conditions and trends then. The most important factor was that the HKMA made a clear pledge that it would assume the role of protecting the rights and interests of consumers and it also undertook that it would use the same standards adopted by the Securities and Futures Commission (SFC) in its overseeing of the trading in securities by banks.

Another factor was that Hong Kong had to be on the same pace and in line with the same trend as found in the rest of the world. In 2000, 2001 and 2002, the global trend was deregulation and relaxing of controls. Globalization was advocated and more creative tools were encouraged. In such circumstances, we agreed that the existing framework should be adopted. And it has been used for six years since then. The Lehman Brothers incident has exposed the loopholes

in the existing framework and so we must undertake a fresh review. This motion proposed by Mr Ronny TONG is therefore most meaningful.

Apart from the problems pointed out by many Members earlier, there are some problems of a more fundamental nature that we have to face. For example, what in fact are derivatives and financial products with extremely complicated structures? And the disclosure-based approach caused many people to question it.

I listened very carefully to the speech made earlier by Dr David LI from the banking sector. He mentioned the point that the risks of credit default swaps were beyond our imagination. The reason was everything was in a black-box operation and there was no transparency. In that case, then what else is there to disclose? Is the disclosure sufficient at all? If a person is to be held responsible once disclosure is made, then this is very different from the situation of someone buying a refrigerator or a woollen sweater and be responsible for what he has bought.

So what can be called disclosure-based? Even if emphasis is made repeatedly on the disclosure-based principle, we have no idea as to what should be disclosed, for the practice that was used before cannot be used now. More importantly, what then is the relationship between the banks and their clients?

Deputy President, in this issue, there is this question which haunts me. Why financial products that are so complicated in structure and bearing such high risks can be sold in this way to depositors? This makes me ponder over the relationship between the clients and the banks. Are they parties to a transaction? Or does confidence have a role to play in this? Or should the banks provide some advice to the clients to help them in making an investment? If this is the case, does an element of trust exist? Should the banks be barred from selling products so complicated as these? If only deposits are involved, then the relationship between the two parties would be quite simple. But if the banks want to sell these products to their clients because they want to make money, then the relationship between the two parties would change.

Deputy President, a macro review by us is very important. The situation now owes its background to past conditions. The role of the banks began to change some time before the year 2000, from one of making profits out of the difference in interest rates between loans and deposits to embarking on

investment services and even playing the banker in a gambling game with their clients. What would be the next step in this development? Is there no turning back? Would it be all right if there is "one bank, two regulators"? If it is said that there is something wrong with the "two regulatory authorities for one industry" approach, then should we resort to "one bank, two regulators" which is more direct?

(THE PRESIDENT resumed the Chair)

Some people suggest that regulation should be imposed separately based on functions so as to ensure the function of ensuring stability in the system be separated from the function of overseeing the code of ethics observed in the sale of products. However, this is only one of the topics to be considered. I think our role as the legislature is to share the responsibility in exploring these issues. The effect of the financial tsunami is that a new order has emerged in the global financial system, but so far nobody is able to predict what this new order would be like.

I hope very much that Dr David LI can give us more advice later on to see how the banking sector would reflect on the situation.

Finally, President, I would like to point out that Prof CHEN Zhiwu, Life Professor at the Yale University, advised us to use this opportunity to improve the framework and increase its transparency. I think that we would have this good opportunity. Thank you, President.

MR JEFFREY LAM (in Cantonese): President, in the latest spate of financial incidents we can see a host of problems with the sales practices, approval given to products, duplication in regulation and lack of clarity in functions and duties of some financial authorities. The Administration should examine the drawbacks of the existing regulatory system of the financial sector and introduce reform as appropriate in order to rectify the shortcomings in the system.

Now there are about 43 000 people who have bought Lehman-related products and the total investment they have made is more than \$20 billion. The

number of related complaints is more than 18 000. However, this incident could well be just the tip of the iceberg, for there are still many high-risk structured products sold in the disguise of low-risk products. The value of credit-linked notes including minibonds is as much as some \$36 billion and there are also many extremely complicated derivatives in the market, such as the accumulator which is quipped as "I kill you later", and the decumulator and the ELN or equity-linked notes which retail investors can also buy. In view of this, we need to speed up our review and reform of the existing regulatory system of the financial sector, for if not, there will be more victims to come. And this will not only rock people's confidence in the entire financial system and lead to queries about the regulators and the financial system, but also tarnish Hong Kong's reputation as an international financial centre.

President, about the storm that gathers around the Lehman Brothers Minibonds, I would think that it is caused by the grey areas and lack of regulation in the "two regulatory authorities for one industry" system. By this, it is meant that the Securities and Futures Commission (SFC) and the Hong Kong Monetary Authority (HKMA) will regulate the investment products sold respectively by the securities firms and the banks. This practice has led to the appearance of double standards and it has been criticized by the industry all along. The Lehman Brothers incident has served to highlight the shortcomings of this system.

In this Lehman Brothers incident, many of the complaints made are directed against banks. Does it have anything to do with the fact that banks are not supervised by the SFC? The SFC is responsible for vetting and approving financial investment products and it is well-acquainted with the nature of various kinds of such products. As its duty is mainly concerned with the protection of the interests of investors, its supervision of securities firms is very strict. Frequent inspections and undercover operations are taken to ensure that there are no non-compliant sales practices at the front line. Besides, the SFC issues licences directly to the intermediaries and should they be found to be non-compliant, the SFC will find out very quickly. Sanctions like admonishment or even revocation of licence can be imposed.

As for the HKMA, under this "two regulatory authorities for one industry" system, it is tasked with overseeing the trading of investment products by banks. But since the HKMA is not responsible for vetting and approving financial

products, it will not care about whether or not such products are fit for sale to the public. The main duty of the HKMA is to protect the interests of depositors and the integrity of the banking system. In comparison, its efforts in overseeing the sale of such products by the banks may not be sufficient and there is no direct monitoring of the front-line sales staff at all. Despite the fact that the sales staff of the banks need to pass examinations and get a licence, the truth is, as we all know, some non-qualified staff will market the products to clients and when the clients decide to buy, the licensed staff will then sign the agreement with the clients.

President, if on the other hand there is non-compliance by the banks, and after the HKMA has substantiated the case, it will be referred to the SFC for action. On receipt of the case, the SFC will commence an investigation again. After the case is proven, the SFC has to discuss with the HKMA in recommending the sanction to be imposed. There is too much overlapping and duplication in this complaint handling mechanism and it will waste both time and efforts. The efficiency in regulating the financial sector as a whole may be compromised. I suggest that the SFC should examine the product structure and distribution process of all the stocks, futures and financial derivatives while the HKMA will oversee bank balance and the movement of the Hong Kong dollar. This will result in a clear delineation of duties and responsibilities of the regulators.

President, now the SFC exercises its regulation of financial products under the disclosure-based principle. As the Lehman Brothers has gotten an AAA rating by using the "first to default" approach to dress up its minibonds, the SFC therefore overlooked the real risks underlining these products. This led to insufficient disclosure. The SFC should undertake a review of this disclosure-based mechanism as soon as possible, publish information on the real components and risks of various products, classify the products and determine the suitable sales targets of these products. An example is that certain high-risk products should not be sold to ordinary members of the public over the counter. On the other hand, investors should strive to understand the real structure and risks of the products before deciding to make an investment. We can see that there are split-second changes in the financial markets and what may be recognized by everyone to be low in risk may change to high-risk. Hence investors should be aware of this fact.

President, now that we know where the problems lie, the pressing task before us is to plug these loopholes in regulation as soon as possible, strive for greater protection of the interest of investors and put the development of our financial sector back onto the right track.

President, I so submit.

MR JAMES TO (in Cantonese): President, the Lehman Brothers victims know that we have a debate today, and one of them has given me some lyrics, and asked me to sing a few lines for him. He has also told me that there is around one month before Christmas, and he has composed a song "Minibond is coming to town". Let me sing one stanza: "You'd better watch out, you'd better not cry, you'd better keep cash, I'm telling you why, minibond is coming to town. They're selling you once, they're selling you twice, it doesn't care if you've been careful and wise, minibond is coming to town. Finance products are complicated, finance products are so vague, the banks make you bear the cost of risk, so keep out for goodness sake." Putting it simply, the lyrics mean that there was a high degree of trust between front-line bank employees and bank clients but, in this incident, they think that their trust seems to have been ruined.

I have heard some Honourable colleagues say earlier that it is really not easy to rebuild trust, so we must tackle this incident better so that, in respect of the whole system in the future, the clients will not only make deposits, but also have more confidence when they consider buying other financial products.

President, in fact, I think it would be better for the motion debate today to be held a bit later. Why? Because the issues involved are quite complicated. As all of us have seen, Alan GREENSPAN who has been the United States Federal Reserve Chairman for such a long time admitted his fault, and when the central banks, heads of state and finance ministers all over the world got together, they were actually not too sure about what should be done in the future.

The situation in Hong Kong is particularly special, and it is not so easy for us to take charge and tend to our business without thinking of the others though we have imagined that we can do whatever we want. It is because we have become an international financial centre, and frankly, we are only an intermediary. In other words, we have to attract other people to divert "funds" here, and we will provide certain services and management services at cost, in the

hope of benefiting all trades and industries. Thus, we cannot say that we have systems and we can manage on our own because we certainly have to consider the others' systems, especially those of our competitors, and how they are going to carry out reforms. Thus, at present, if the relevant organizations want to mislead the public again, it is basically not as easy. I believe if we rashly and hastily reform our system too early, and even hold debates underpinned by certain inclinations, thinking that adopting a disclosure-based approach or specifying certain matters as surely right or wrong, I am afraid the result will be just the opposite to our expectation.

Even so, I have read an article written by Mr Joseph YAM, the Chief Executive of the Hong Kong Monetary Authority (HKMA), on the website of the HKMA on 9 October 2008. In my view, the 10 questions mentioned are still worth pondering, and I will try to express my own views as self-examination during this time when the questions have yet to be carefully considered.

The first question asked by Mr Joseph YAM is whether the current "buyer beware" policy for the protection of investors remains appropriate, in particular in relation to small investors investing in complex financial products. This question involves the acceptance or rejection of liberalism or protectionism. This protectionism is not about customs duty protection, but about the sale of some products. For instance, we found after the incident that the minibonds could certainly not be sold to people who have a low level of educational attainment, the elderly or people constrained in certain ways. In other words, they do not have freedom to buy the products concerned. I have subsequently considered whether it is the best decision. If a disclosure-based approach can be adopted, the most important point is that the sellers can clearly explain the risks and the product structure, and ask the clients explicitly whether they are really prepared to bear those risks; they can then allow the buyers to buy the products.

The question now is that the approval process of the Securities and Futures Commission is not clear enough. For example, the word "minibond" may be misleading, or other prospectuses of sale may also be misleading. Yet, the question boils down to whether we can set out the so-called very effective requirements to specify that some people can definitely not buy the relevant products. Or, at the retail level, if we have thought it over and put in place systems that are very stringent, very strict and very prudent, can we allow purchase by everybody? Nonetheless, we do not want those procedures because they are so complicated that even no intermediaries in the United States engaged

in the retail sale of these products as people found it too complicated and they did not want to get involved, so they might as well not buy such products. But, people are still free to buy these products; whether anybody will actually buy them is another question.

President, as time is running short, I personally think that, for sake of record, it is worth reading out other questions posed by Mr YAM. He asked, "If the policy is still considered appropriate, is the mechanism for the approval of the sales documents is appropriate? Can full and sufficient disclosure of risks be ensured? If yes, how best can we ensure that distributors and the front-line staff follow the code of conduct and guidelines? Does the incentive system for the distributors and front-line staff encourage strong marketing and mis-selling in order to increase the sales volume? How should the new policy be implemented?"

President, I can only say that we need more time to consider the questions and more haste, less speed. At this moment, we should not be reckless; in particular, before we have made reference to the actions of some major international financial centres, we should not act rashly and arrive at a conclusion in a hurry. We will continue to make careful consideration and express our views.

MR CHAN KIN-POR (in Cantonese): In this once-in-a-century financial tsunami, a lot of people have suffered enormous losses because they have bought Lehman and other related products. But I believe Honourable colleagues should have noticed that this crisis is actually imported and there are basically impacts from the United States, for there are a large number of derivatives produced in the United States and there is an enormous loophole in the United States mortgage system. Some of my friends who have returned from the United States have told me that, a few years ago, there were signboards outside many houses with the expression "no job, no credit, no problem" written on them, and they have ultimately created a very serious problem.

Moreover, the high-leverage operation of investment banks in the United States calls for a substantial reform. As we have observed, in various parts of the world such as Europe, the United States and Britain, the banks need capital injection by the local governments, and there is an astonishing black hole. The banks in Hong Kong certainly have significant problems in terms of the sale of

Lehman products and the complaints made by those affected have revealed lots of problems; there is a need for urgent improvement.

But in contrast, the problems found in the banks in Hong Kong under our financial system are far fewer than those found in foreign countries, and the work of the HKMA in regulating banks is not easy at all. Similarly, the Office of the Commissioner of Insurance has made great efforts in supervising the insurance companies in Hong Kong. Nowadays, the stock and foreign exchange markets are very volatile, and the values of many shares have shrunk to only 10% of the original, but the insurance companies in Hong Kong have maintained normal operation, which is no easy feat at all. We all know that the AIG group ran into difficulties because its United States head office had problems, but it has absolutely nothing to do with the relevant company in Hong Kong. The assets of that company in Hong Kong far exceed its liabilities, and there is absolutely no problem with its financial strength.

Nevertheless, I still support the motion today and the various amendments mainly because this incident has huge impacts, which precisely demonstrated the problems of our financial system under pressure and the many areas where improvement is necessary. Thus, we really need to examine and improve the roles of various regulators.

The Lehman Brothers incident has brought losses to many people, and many of them have lost their lifelong savings. So, we must establish an effective mechanism for handling complaints and protecting depositors and the insured. This is extremely important because only a sound system can restore people's confidence in the financial sector.

Yet, I wish to make a very important point. When we conduct a review, we should not think that the more layers of regulation the better because the more complicated the regulation, the higher the compliance cost, and this cost will eventually be shifted to consumers. Hence, when we carry out a reform, the focus is to consider how to achieve the most effective regulation under globalization of the world economy, the globalized sale of financial products, as well as the interconnection among the sale of products by banks and the securities and insurance sectors to best protect consumer interests. But it must be noted that we should not deprive consumers of their right to choose investment products

on their own in the light of the risks they can bear because these are their basic rights.

Regulation may not necessarily be the best option. We must recognize that regulation must be efficient, and we must preserve the rights of consumers when we protect consumers. I think these directions are important.

I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): President, the motion today is about reforming financial regulators. When I read the motion title for the first time, I thought that it must be about the Hong Kong Monetary Authority (HKMA) and the Securities and Futures Commission (SFC), but when I came to the contents of the motion, I really found it strange and I was really surprised and astonished that Mr Ronny TONG had included the Office of the Commissioner of Insurance and the Mandatory Provident Fund Schemes Authority (MPFA) in the scope of regulation.

President, as we all know, the most important function of the MPFA is to monitor whether employers have made MPF contributions for their employees, and the salespersons from the banking or insurance sector are generally not supervised by the MPFA, as it is considered that these people are already supervised by other bodies. So, the MPFA does not play a regulatory role in this respect. In the past, we kept criticizing that the administrative charges for the MPF contributions were very high, and this problem has been discussed in this Council for a long time. Unfortunately, the MPFA is a toothless tiger that cannot do anything.

Thus, in our discussion on this question today, I agree very much with the remarks made by Mr Ronny TONG. In the first sentence of the motion, it is stated that, "as presently the regulation of the financial sector and financial products is vested in a number of regulators, causing the suspicion that there are duplication and fragmentation of their regulatory roles, functions and resources", and the most important point is "fragmentation of their regulatory roles, functions and resources". I fully agree with this comment, and as I have just said, the regulators only look after their own affairs and will not co-operate in handling problems. In the past, we received quite a lot of complaints about MPF but the problems were not solved. Therefore, we think that the motion today is very

good and I hope the Government will realistically tackle the problem for it affects nearly 2 million wage earners. Many of the complaints we received cannot be solved, especially those related to the administrative charges under discussion. I hope that the Government will render practical assistance and consider how the problem could be solved.

Moreover, insofar as the regulators are concerned, as Honourable colleagues have said, the most important issue in respect of the financial tsunami is the problems arising from the Lehman Brothers incident. Now, we have to consider whether these products should be regulated or whether, as many people have said, these products should actually not be sold to the so-called targets for they should be subject to regulation instead. President, this problem should be taken seriously and addressed positively. I think that there are problems with the products but it is actually most important to deal with the sellers' practices. That is why the Government has said that the problem must be vigorously tackled and the efforts cannot be slackened; if problems have emerged, the efforts can certainly not be slackened. However, President, this is just being wise after the event. In this regulation under discussion, prevention should be better than cure. In other words, prevention is better than making a fanfare of it afterwards. It is meaningless to make remarks afterwards; even if it is determined to "execute" some people, some others have already been implicated, which is meaningless to the whole incident.

Prevention is most important. But how precautions can be carried out? We have to do so through regulation. I would like to ask the Government: Did it know, before the outbreak of the incident, the banks had employed illegal practices? Did the Government know that? If it did not, I think the Government has ineffectively regulated the banks. If it did but it had not handled the matter, then why? Thus, regardless of whether the Government knew that or not, I trust that there are problems. How will the Government assume its responsibilities?

For me, this incident exactly reflects that the problem lies not only in regulation; it is not as simple as that, and it is about the attitude adopted by the Government towards the financial institutions, which is the most important point. In the past, did the Government only carry out regulation in name and was it actually indifferent and condoning them, as if it was an onlooker? Did the Government do so? If it tells us that it did not, I would be baffled. Among the cases we are handling, some cases are problematic even in the opinion of the

Government, some people such as the elderly in question (it would be best if examples could be given). The products should not have been sold to them but these people were seduced by some to buy those products, and they have ultimately become victims. In connection with these cases, I think that the Government should give a response and tell us why these problems have emerged. Why was the Government unaware of this before? Why did it not prohibit it? Why did the Government not make any publicity and point out that these were improper? Why did it not do any of all these? Government officials are only telling us now after the outbreak of the incident that they will tackle the problems, they will not give a free hand and they will address the problems squarely. This is just "sending in policemen after the thief has gone", will it be meaningful?

Thus, I think this incident can reflect that there are problems with the whole financial structure. Today, we are saying that Hong Kong is an international financial centre, but we have really not lived up to the name because there are so many problems in Hong Kong, and the Government was indifferent and overlooked these problems in the past. Is it ashamed or not? How can it live up to the name of an international financial centre? In calling Hong Kong an international financial centre, should the Government not feel ashamed? I think this incident is really a disgrace. I wonder why the Secretary is so shameless that he can still sit here discussing the problems. If I were him, I really do not know where I should hide. What has he done? I hope he would give me an answer later about what he had done before the outbreak of the incident. What has he done? As far as I know, the Government has "handed in blank answer sheets", and it has not done anything.

Hence, I certainly support Mr Ronny TONG's motion. But if we continue to discuss regulation while the problem lies in our failure to monitor the Government, it will be meaningless. Will it be meaningful for us to ask a body that we fail to monitor to take up regulatory roles?

President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, all of you know that I have long been an avid critic of Joseph YAM here. In fact, I have said many times that Hong Kong people often pay attention to how foreign exchange is managed. If there are gains, we will clap our hands and exclaim that a good job

has been done. In the past when I sat over there, I already asked what would happen when there were losses. If other people come here and make money from us, what should be done? So, I am really not just wise after the event.

I have quoted before the remarks I made in an interview with *Newsweek* in 2007. I said at that time that if "casino capitalism" happened in Hong Kong, it would be very dangerous and there would be widening disparity between the rich and the poor. This would make the rich extort the poor for money, and the richest would extort the poorest for money. Just like people on a pyramid, where those at the top would often exploit those at the bottom. So, if we talk about foresight, I think it can be said that I have the best foresight.

Now, Joseph YAM has said that he has foresight. In 2003 after he had given a feedback to the International Monetary Fund, the Government bragged about the Securities and Futures Commission (SFC), the Hong Kong Monetary Authority (HKMA), and the Financial Secretary having set up a joint committee to regulate such matters as over-the-counter block trade transactions. I asked him time and again if the relevant information could be made public. He told me that he personally agreed that the relevant information should be made public. However, he initially said that he had to ask John TSANG but John TSANG did not say whether or not the relevant information should be made public. Buddy, please make public the information. Is there regulation? How is the regulation carried out?

The present Government is utterly shameless, President, although I understand that the words of the lowly carry little weight, I thought he should have heard my question since I have been raising it over a long period of time. Buddy, this Council has the Official Record of Proceedings, though I have not written to him, he should have shown me whether there is regulation. Now that he has not given a reply, how can we regulate these people?

The HKMA is also a freak, for it is not governed by an ordinance on the HKMA, and it is established under two ordinances, namely the Exchange Fund Ordinance and the Banking Ordinance. The Financial Secretary may give the HKMA powers and the HKMA is directly accountable to the Financial Secretary. Actually, there is no regulation at all. What can the HKMA do? It only has duties and tasks but not responsibilities, and it is not accountable to anybody. It is not accountable to us. If a reform is not carried out in this connection, Joseph YAM will be just like a "financial tsar". When he attends a meeting in this

Council, he can tell us that he does not know anything when we ask him questions, yet, we cannot remove him from office; at the most, we can only remove the Financial Secretary from office, right? Since the Financial Secretary is shielding him, there is a cycle and a strange circle has been formed with the head biting the tail and the tail biting the head. It has already become a scandal; Dr LAM Tai-fai has criticized Joseph YAM, and he has said that he will do something, but it turns out that the issue is referred to the SFC; if the SFC cannot handle it, the issue will then be referred to the HKMA. President, how can the problem be solved, right? Despite my scolding him every day, he has not made any response. If we do not make amendments to the Basic Law the Financial Secretary can directly give him tasks and give him powers according to the Exchange Fund Ordinance and the Banking Ordinance; does he have to be accountable to us?

The SFC is even more outrageous. When the Chief Executive asks it to conduct an investigation, it can act in the contrary and it can also discontinue the investigation halfway. On the whole, it is not the cup of tea for ordinary people like us. The SFC has also adopted a disclosure-based approach, right? Nevertheless, the risks were not disclosed at all. Now those "toxic steamed buns" have been sold, it is superfluous to call them minibonds because they are actually the soup of oblivion. Some products were created for sale by an organization but the organization did not bother about what the products were and it just sold them. This is the crux of the whole problem — precisely the absence of regulation. There is a tripartite joint committee but regulation is not carried out.

LEUNG Yiu-chung has asked if he would feel ashamed. Why should he? When it has become evident that we will not have universal suffrage, some still say "how good it is without universal suffrage"; if they can say something like that, what shame is there to feel? Buddy, without universal suffrage, they can still say that "it is good for you, why do you not appreciate our kindness? Whoever raises objection is making a mess of Hong Kong." As they can make such remarks, what will make them feel ashamed? President, do you think so? Similar remarks were made during the French Revolution, the American Revolution and the Chinese Revolution — all these countries have experienced two revolutions, and some of these revolutions involved the Republic of China and the People's Republic of China. For issues that are not shameful at all to some people, will it be shameful for us to discuss them in this Council? Today, we think it is shameful that we cannot effect monitoring on him.

In addition, within the HKMA I asked Joseph YAM a question the other day and he told me that there was an advisory committee. When I asked him about its composition, he told me that it comprises his immediate boss John TSANG (who can "sack" him); Joseph YAM himself; HE Guangbei from the Bank of China (Hong Kong) Limited (BOCHK) who is concurrently Chairman of the Hong Kong Association of Banks; Henry FAN who has automatically resigned after the scandal; Simon IP is better for he is just a Justice of the Peace; KWOK Ping-yan Thomas KWOK, sorry, my handwriting is almost illegible, from Sun Hung Kai Properties; Vincent CHENG, Chairman of The Hongkong and Shanghai Banking Corporation Limited; Lawrence LAU is a scholar, he swells with pride and he thinks that he is "elegant though he grows up in sludge"; and Patrick FUNG from the Wing Hang Bank; David SUN from ERNST & YOUNG; Peter SULLIVAN is Chief Executive of the Standard Chartered Bank; John CHAN used to be a senior government official and he is now Chairman of The Hong Kong Jockey Club. Buddy, what can the Advisory Committee do? All its members have become or have chances to become rich because of minibonds. Is it not a bad regime? Why is a reform not conducted? Why is the authority not taken back? The Legislative Council has basically lost its authority. When we asked the SFC to attend a meeting at this Council, it took no notice because it is directly accountable to the Chief Executive. And, when we asked the HKMA to attend a meeting at this Council, it is only accountable to an official subordinate to the Chief Executive. What tricks are they playing? I do not know what tricks they are playing. So, if we really want to carry out a reform, we have to start with the organs of power, requiring them to be accountable to the Legislative Council and the Government, and the Government should be accountable to the Legislative Council (*the buzzer sounded*) Without universal suffrage, we should not cherish vain hopes. President, I know what you are going to say, you are just asking me not to continue.

DR RAYMOND HO (in Cantonese): President, Hong Kong has all always been proud of its being a world financial centre and it always wishes to bring itself on a par with New York in the United States and London in Britain. In this financial tsunami, some financial markets in China, Britain, the United States and even Europe have found themselves in danger, and, Hong Kong is so far comparatively stable for the time being. The operation of our financial system as a whole remains smooth.

However, in connection with the sale of financial products and the protection of investor interests, the standards of the regulators have aroused significant social concern. Recently, the Lehman Brothers incident has involved 43 700 people and over \$20.1 billion. Exactly for this reason, the Legislative Council has decided to set up the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products, and endorsed invoking the Legislative Council (Powers and Privileges) Ordinance for the investigation of the incident. As Chairman of the Subcommittee, I trust that the Subcommittee will surely observe the principles of being objective, unbiased and free from undue influences. We should consider the right to know of the public as the major principle, and strive for a high degree of transparency. Nevertheless, in obtaining evidence, if disclosure of the collected information will affect public interests or the operation and competitiveness of the relevant bodies, we should carefully consider the confidentiality requirement and handle the issues carefully. We should conduct in-depth studies and investigations into the issues concerned and arrive at a conclusion. Before then, I do not want to make any judgment on the regulatory responsibilities and standards of the financial regulators concerned to avoid affecting the investigation by the Subcommittee or undermining its credibility.

Apart from the Lehman Brothers incident mentioned above, the disclosure of sensitive information on some listed companies including information on their incurring huge losses because of their involvement in leveraged foreign exchange trading contracts has also caused queries by the general public about the existing regulatory regime. Earlier on, the parent company of the American International Group (AIG) in the United States ran into financial difficulties and triggered off a wave of insurance policy redemptions by the customers of American International Assurance (AIA) in Hong Kong, thus highlighting the problem of regulation of the insurance sector.

The outbreak of the financial tsunami has exposed the deficiencies of our financial regulatory regime. In fact, the financial tsunami originated from insufficient financial regulation. The governments of various countries and those from the finance sector are tackling the problem of appropriate financial regulation. It is because excessive regulation may smother the innovation and vitality of the financial markets and stifle unleashing of the overall economic potentials. But a lack of regulation may allow some to make use of the weak regulation to reap profits such that other market players may suffer losses, and it

may even jeopardize the stability of the economy as a whole as in the case of the current financial crisis.

It is time for Hong Kong as one of the world financial centres to conduct a review and carry out a thorough reform when necessary in order to reinforce our financial regulatory regime and rise to the new challenges in the future.

President, I so submit. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now speak on the three amendments. You may speak up to five minutes.

MR RONNY TONG (in Cantonese): President, a total of 22 Members have spoken and I am very grateful for their explicit and helpful opinions. President, on the amendments of Honourable colleagues, I actually have to respond to three relatively new concepts.

First, is it necessary to change the disclosure-based principle? President, under the Basic Law, we understand that the fundamental principle is *caveat emptor*. Actually, the disclosure-based principle is one step further from the *caveat emptor* principle. Is the disclosure-based principle not enough? Should people obtain licences before they can buy financial products, or should they be restrained by other means? President, I think it is necessary for us to discuss the issue. What we are now facing is probably the problem that the disclosure-based principle has not been fully utilized. I trust that we can continue to hold discussions in this connection.

President, the second concept is whether subjecting one industry to several regulatory authorities is impracticable or whether we must adopt a unified regulatory regime? President, I did not say a while ago that there must be a sole regulatory regime. On the contrary, in the concluding paragraph of my speech, I

said that we must have a central bank structure, which may be independent of the regulatory regime. I would like to cite the example of the United States; as I have just said, the United States Treasury Secretary Henry PAULSON announced on 31 March a new financial system management scheme. President, Honourable Members may remember that the United States has a very complex financial regulatory regime with seven different regulators. The Treasury Secretary has now proposed streamlining the seven regulators into three key regulators, including the market stability regulator, that is, the Federal Reserve, which is the central bank that we referred to. Second, the prudential financial regulator integrating the authority for bank regulation is responsible for controlling commercial activities and protecting the interests of financial product investors in the course of commercial activities. President, as we can see, the so-called integrated regulatory regime has many different combinations. We have proposed this motion in the hope that the Government would meticulously consider reviewing the practice of having four different regulators, and consider if there is room for integration so as to plug the loopholes mentioned by Honourable colleagues earlier.

President, the third point that I am going to make is that Mr Albert HO thinks that the concept of "instructing compensation" in Mr CHAN Kam-lam's amendment has gone against the basic principle that everything in Hong Kong should be determined by the judicial system. President, "instructing compensation" is not necessarily bad, and many different mechanisms have adopted the concept of "instructing compensation", and the problem lies with the extent of compensation. Actually, we had taken this issue into account when we discussed the fair competition law — whether instructing compensation would be more efficient and whether the investors or victims ought to go through time-consuming judicial proceedings and pay enormous lawyers fees before getting compensation. In fact, we have other solutions in this connection, but it does not mean that we are going to forsake the basic concepts of judicial proceedings. Even at the level of "instructing compensation", we still have the judicial recourse for higher level regulation through judicial review or an appeal mechanism. Hence, "instructing compensation" is not necessarily bad.

I hope that Honourable colleagues would put aside the views of their political parties and support all the motions and amendments. I hope there will not be "virtually nothing", which is my only worry. President, I hope that the Democratic Party and the DAB would support each other. Thank you.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President and Honourable Members, our discussions in this Chamber today on upholding Hong Kong's financial stability and perfecting our financial regulatory regime carry profound and far-reaching significance.

Since the 1930s of the last century, we have rarely encountered any global financial crisis which can be compared with the present one in terms of scope, profundity of effects and force of impacts. This financial tsunami has exposed the fact that the financial regulatory regimes of advanced countries are in need of improvements. As mentioned by Members just now, Credit Default Swaps (CDS) are basically an innovative product that can help financial institutions to divert their risks. However, since all major regulatory authorities worldwide have never recognized the necessity of regulating this type of derivative products, allowing them to develop without any control, the bubble has finally burst. This is the major cause of the financial tsunami.

The policy responses after the outbreak of this serious incident in global financial markets are mainly about the perfection of regulatory regimes rather than regarding the abolition of derivative financial products as an absolute necessity. Following its Washington Summit on 15 November, the Group of Twenty Finance Ministers and Central Bank Governors (G20) issued a statement that outlined the directions of reform to be followed by governments and financial regulators all over the world in respect of the banking sector, the securities industry, accounting standards and credit rating institutions. Ways of enhancing the regulation, transparency and sales standards relating to CDS and other complex financial products were outlined. In very much the same way, the Lehman Brothers incident shows that it is necessary for us to conduct a study on ways to improve Hong Kong's regulatory regime, including the sales standards governing structured financial products. Our financial regulators have started a serious study of the recommendations made by G20 and other relevant international organizations and will make continued efforts to improve the existing regulatory regime.

Naturally, while thinking about how best to improve our financial regulatory regime, we must make sure that we will not lag behind the current trends of the global financial industry. But Hong Kong should not blindly follow any foreign experience. Rather, it must pragmatically examine the whole issue in the light of its unique circumstances. In the debate today, many Members have offered insights on the present regulatory regime in the light of

our actual situation. The discussions today will provide useful reference in our future policy review.

First, there are those views on the practice of "two regulatory authorities for one industry". We have already undertaken to review this practice. And, Members have also mentioned many other problems relating to resources and overlapping frameworks.

I would like to say a few words on "multiple regulatory standards". It has been pointed out by many people that at present, while the Securities and Futures Commission (SFC) is responsible for vetting and approving the information disclosed in relation to certain financial products, the Hong Kong Monetary Authority (HKMA) will be responsible for front-line supervision if the products are sold by banks. If the products are sold by securities firms, the SFC will be responsible for supervision. They wonder whether this will give rise to inconsistent standards. I must emphasize that all standards are in fact consistent. Under the Securities and Futures Ordinance, there is a set of clear and consistent guidelines for all traders of securities (including banks and securities firms). Traders must also comply with the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission (the Code of Conduct) in the course of selling the relevant products. The Code of Conduct sets out the basic requirements regarding the business conduct of the securities industry in Hong Kong, which is also applicable to banks. I must stress that the HKMA and the SFC have been adopting the same standards in the course of regulating securities business at the front line.

Another major category of views put forward by Members are related to the regulatory regime. Such views include whether there is adequate protection for investors' interests, whether regulation is stringent enough and whether it is necessary to regulate credit rating institutions. But the most heavily discussed topic among Members is the disclosure-based system. Members also noted that this is the system adopted by major advanced markets. The reason for this is very simple. Risk tolerance varies from person to person, so it is very difficult for financial regulators to determine which types of products are suitable for sale in the market, or which types of products must never be sold. Another point is that while regulators must require the disclosure of product risks, they must attach equal importance to support measures. This means that intermediaries marketing such products, be they banks or securities traders, must be required to carefully consider whether the products concerned are suitable for a certain customer in terms of risk tolerance. When reviewing the system, we may

consider whether it is necessary to impose more requirements regarding product features when the prospective customers are retail investors, or whether the sale of relatively complex products should be restricted to professional investors. We have also undertaken to examine whether it is necessary to tighten the definition of professional investors. And, naturally, we will also consider how we can step up our supervision of the conduct of the intermediaries engaged in the sale of such products. But I wish to emphasize that over-regulation will entail a price, the price of stifling market development and investor choices. We must therefore always try to strike a balance between market development and regulation.

Lastly, Members have proposed to conduct studies on establishing an independent appeal and arbitration mechanism. In the course of handling the Lehman Brothers incident, we have actually established a mediation and arbitration mechanism to assist victims in claiming compensation. Our policy review will also cover the necessity or otherwise of establishing a standing ombudsman or mechanism for appeal and mediation.

When trying to reform the existing system, we do not necessarily have to destroy the whole system and start afresh. No existing mechanism can be considered perfect. Every regulatory structure has both pros and cons. The important thing is that when examining how we can perfect our regulatory regime, we must take account of the financial system of Hong Kong and find out how our limited regulatory resources can be effectively utilized to achieve the four regulatory objectives mentioned in my earlier speech at this meeting, namely, the promotion of the security and stability of financial institutions, the reduction of systemic risks of the markets, the promotion of a fair and efficient market, and the upholding of investors' interests.

The Financial Services and the Treasury Bureau has launched its work on conducting the relevant review. It will consult the Legislative Council in due course. Thank you, President.

PRESIDENT (in Cantonese): I now call upon Mr CHAN Kam-lam to move his amendment to the motion.

MR CHAN KAM-LAM (in Cantonese): President, I move that Mr Ronny TONG's motion be amended.

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

"To delete "as" after "That," and substitute with "under the mode of 'two regulatory authorities for one industry','"; to add "in Hong Kong" after "and financial products"; to delete "their" after "fragmentation of" and substitute with "the"; to add "among various regulators" before ", this Council"; to delete "strengthening" after "such as" and substitute with "reviewing the existing disclosure-based regulatory principle so as to strengthen"; and to add "establishing an independent complaint mechanism for financial businesses, and empowering the regulators to instruct defaulting financial institutions to compensate their clients etc," after "the sale of financial products,."

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

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

(Members raised their hands)

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

(No hands raised)

Mr Albert HO rose to claim a division.

PRESIDENT (in Cantonese): Mr Albert HO has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr WONG Yung-kan, Ms Miriam LAU, Ms LI Fung-ying, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the amendment.

Dr Raymond HO, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr Alan LEONG, Mr Ronny TONG, Mr CHAN Hak-kan, Miss Tanya CHAN and Dr Priscilla LEUNG voted for the amendment.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present, 14 were in favour of the amendment and three abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, nine were in favour of the amendment and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MS MIRIAM LAU (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Reforming Financial Regulators" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Miriam LAU be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Reforming financial regulators" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr Albert HO, you may move your amendment.

MR ALBERT HO (in Cantonese): President, I move that Mr Ronny TONG's motion be amended.

Mr Albert HO moved the following amendment: (Translation)

"To delete "as" after "That," and substitute with "the recent spate of incidents occurring in the financial sector, including the 'Lehman Incident' and the 'Citic Pacific Incident', etc, reflect that the regulatory regime of Hong Kong's financial system needs to be further reformed and to enhance protection for bank clients and investors, whilst"; and to delete "and" after "the standards of the regulators" and substitute with ", as well as studying the establishment of an independent financial ombudsman to provide one-stop and convenient disputes resolution service for handling disputes and compensation matters between clients and financial institutions, so as to better"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert HO to Mr Ronny TONG's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Ms Miriam LAU, as the amendment by Mr Albert HO has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. When you move your revised amendment, you may speak up to three minutes to explain the revised terms in your amendment, but you may not repeat what you have already covered in your earlier speech. You may now move your revised amendment.

MS MIRIAM LAU (in Cantonese): President, I move that Mr Ronny TONG's motion as amended by Mr Albert HO be further amended by my revised amendment.

President, my amendment is actually very simple, and it is divided into two parts: The first part is my amendment to the introduction to the motion, which has already been deleted. Also, I have retained the proposals in the original amendment, and I have made essential textual amendments to the proposals. Thank you, President.

Ms Miriam LAU moved the following further amendment to the motion as amended by Mr Albert HO: (Translation)

"To add "and changing the existing regulatory regime, which is 'disclosure-based' and 'subjecting one industry to several regulatory authorities', as well as strengthening the regulation on the sale of investment-linked insurance products, so as to plug the existing loopholes in the regulation of the financial sector and protect the interests of insuring public" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That Ms Miriam LAU's amendment to Mr Ronny TONG's motion as amended by Mr Albert HO, be passed.

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

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the amendment passed.

PRESIDENT (in Cantonese): Mr Ronny TONG, you may now reply and you have 57 seconds. This debate will come to a close after Mr Ronny TONG has replied.

MR RONNY TONG (in Cantonese): President, I would only like to thank the 22 Members who have spoken on this motion. Dr LAM Tai-fai is not in the Chamber now, but I would like to tell him that, in this motion debate, I am not asking the Government to implement the proposals at once and I am only asking it to conduct a review and take the issue into account. Thus, if he returns later to vote, I hope he will support my original motion.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Ronny TONG, as amended by Mr Albert HO and Ms Miriam LAU, be passed.

PRESIDENT (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

PRESIDENT (in Cantonese): Motion on Adjournment.

PRESIDENT (in Cantonese): Under Rule 16(7) of the Rules of Procedure, I determine that if at the expiration of 75 minutes from the moving of this motion, there are still Members who wish to speak, I shall extend the period of the debate to the time when all Members who wish to speak have spoken, and the designated public officer has given his reply.

As regards the speaking time, each Member may not speak in excess of five minutes, and the designated public officer making a reply may speak up to 15 minutes.

It is now five minutes past eight o'clock, the debate shall now proceed.

Members who wish to speak will please press the "Request to speak" button.

I now call upon Ms Miriam LAU to speak and move her motion.

MOTION FOR THE ADJOURNMENT OF THE COUNCIL

MS MIRIAM LAU (in Cantonese): President, in the past 10 years, the operating environment of the taxi trade has been becoming more and more difficult, and in recent years, the "taxi discount gangs" have continuously penetrated the market and upset the market order, leaving little room for the survival of law-abiding taxi drivers. Also, we would hear from time to time of some taxi drivers who refused fare bargaining by passengers being insulted or attacked. If the problem of the "discount gangs" is not addressed squarely, how can there be order in the market? Would there be fairness and justice?

I wish to stress that the existence of the "discount gangs" does not mean that there is room for downward adjustment of taxi fares. In fact, taxi drivers make a meagre income, and if they are unfortunately issued fixed-penalty tickets for traffic offences, their income will even be reduced. According to the information provided by the Government, in the past 10 years, the number of people who took taxis daily remained at around 1 million, but the average monthly income of taxi drivers dropped by 24% compared with that 10 years ago, from \$13,381 to around \$10,000 (which already included the \$1 flagfall increase early this year). For 10 years, the pie has not grown in size and as the "discount gangs" have continuously nibbled at the pie through the so-called market competition, the operation of law-abiding taxi drivers has become increasingly difficult.

I would like to point out that taxi fares are subject to regulation, and every adjustment is subject to strict examination by the Government and endorsement by the Legislative Council to ensure that the level of taxi fares is fair and reasonable. Given that the fares are regulated and at a reasonable level, how could there be any room for bargaining? The "discount gangs" can stay in business and make a generous income because they work in an organized way and tout for customers through the mobile phone network. They make numerous trips and snatch business from law-abiding drivers. As they have to hurry to pick up passengers who have ordered hire, they speed frequently, posing a threat to traffic safety.

The fare adjustment proposal this time has integrated the concept of "raising short-haul fares and lowering long-haul fares" espoused in the Report on Review of Taxi Operation of the Transport Advisory Committee (TAC). The TAC stated clearly at the very beginning of the report that the objectives of the review are to increase the competitiveness of the taxi trade in the transportation market, particularly in the long-haul sector, and to restore a level playing field for taxi operators, pinpointing directly at the "discount gangs" which offer discounts for medium- and long-haul trips. The TAC has headed in the right direction, but the only faulty stroke is that it has not accepted the trade's request for prohibiting fare bargaining by way of legislation.

While fare bargaining is not prohibited, and despite the Government saying that the new fares have given the "discount gangs" much less room for offering discounts, we cannot rule out the possibility that even more fare concessions will

be given. If bargaining persists and the "discount gangs" continue to play the tyrant, ordinary law-abiding drivers will suffer greater losses. Therefore, the Government must enact legislation or at least take effective measures to prohibit fare bargaining by passengers so as to restore order in the market.

Some industry players are worried that, in the face of economic adversity, if the Government implements the proposal of "raising short-haul fares and lowering long-haul fares", business will certainly be affected. I absolutely understand and sympathize with their plight and it is true that the market may not be able to digest the message of a fare increase immediately. There may be fewer passengers at the beginning, and I hope it will only be a transient situation. On the other hand, after lowering the long-haul fares, long-haul passengers may increase, so this may be another business opportunity.

Some taxi drivers who work mainly long-haul trips have complained to me that "raising short-haul fares and lowering long-haul fares" would have the instant effect of reducing their income. This I can understand. But I believe, following the implementation of the new proposal, some drivers may have to adjust and adapt somehow, such as working more short-haul trips for the time being. But in the long run, if the Government can eliminate the vicious competition posed by the "discount gangs" and create a fair and orderly operating environment, it will bring benefits to the taxi trade as a whole.

It is true that the current proposal of "raising short-haul fares and lowering long-haul fares" cannot meet the expectations of all taxi trade workers, but the proposal is after all made after more than a year's discussion by 30-plus taxi organizations (including the taxi trade associations, taxi owners associations and drivers associations), and it is a mixture of different combinations proposed that has balanced the interests of various parties generally. However, if based on various objective factors, it is found that the new fares fail to achieve the expected effects after a certain period; in other words, they fail to increase the competitiveness of the taxi trade and deal a blow to the "discount gangs", or the income of taxi drivers in general has substantially decreased, the Government must conduct a review as quickly as possible, make adjustments and propose contingency measures. Nonetheless, I think the most effective measure is still legislating to specify that taxi drivers shall charge fares according to meters.

President, I so submit.

Ms Miriam LAU moved the following motion: (Translation)

"That this Council do now adjourn for the purpose of debating the following issue: Adjustment in the fares for the hiring of Lantau and urban taxis."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

MR JEFFREY LAM (in Cantonese): President, the adjustment in the fares of Lantau and urban taxis will become effective this Sunday, which is the first time that the fare adjustment proposal of "raising short-haul fares and lowering long-haul fares" is implemented in Hong Kong. About this proposal, I support it in principle and I agree with the conclusion of the study conducted by the Transport Advisory Committee (TAC), that a fare structure of "raising short-haul fares and lowering long-haul fares" should be able to align with the actual market conditions and make the "discount gangs" disappear naturally.

The "discount gangs" offering discounted fares for long-haul trips already emerged many years ago, but the problem of fare bargaining by taxi passengers has not been completely solved so far. I agree with the implementation of the proposal of "raising short-haul fares and lowering long-haul fares" because it will actually fathom what changes there are in mode of passengers taking such transport. More importantly, it will show what changes there are in the market of the "discount gangs". I know the taxi trade has divergent views, but I hope that we will tackle this problem rationally and peacefully, and I think that the authorities should closely monitor the operation of the taxi trade after this fare adjustment.

President, I have also heard that some taxi drivers are worried that, following the implementation of proposal of "raising short-haul fares and lowering long-haul fares", their income may drop. In my opinion, with the gradual decrease in the prices of liquefied petroleum gas (LPG), the expenses of taxi drivers on LPG should also drop. Nevertheless, I know that at the initial period immediately following each adjustment of taxi fares, passengers will take time to adjust and they will take taxis less often. And, under the current

financial tsunami, some people are taking taxis less often to save expenses. Therefore, I call upon the taxi owners not to increase rental during this period to avoid reducing the drivers' income. I know that some owners have agreed not to increase taxi rental during the next six months and I hope that more industry players will pitch in.

Although I really hope that this proposal of "raising short-haul fares and lowering long-haul fares" will restore order in the market, I still think that the authorities should proactively consider how to ensure that the drivers collect and the passengers pay the fares according to meters.

President, I appreciate the complexity of the problem and the difficulty in enforcement, for instance, there are enormous difficulties in the collection of evidence as the drivers and passengers often will not accuse one another. When the passengers ask for discount and if the drivers refuse to accede to the requests, there may be personal safety problems. When the fare recorded on the meter is \$17.4 or \$20.2, if the passenger does not have coins, can the driver not flexibly collect \$0.4 or \$0.2 less by discretion? The most important point is that a taxi driver is often the first person whom a tourist comes into contact with in Hong Kong; if the tourist in enquiring about a discount has unwittingly offended the law, it is really unfortunate and will spoil the mood. Thus, I think that the authorities should carefully analyse the experience of foreign countries in regulating the charging of taxi fares according to meters, and it should also come up with proposals that match the actual situation in Hong Kong, to avoid unnecessary arguments and restore order in the market.

President, I so submit.

MR IP KWOK-HIM (in Cantonese): President, the statistics provided by the Government indicate that, in 2007, the drivers of urban taxis have an average monthly income of \$10,341, more than 10% less compared with \$13,381 in 1998. The income of taxi drivers has not increased at the rate of inflation and has conversely dropped, which is actually not incomprehensible. It is because the New Territories and urban taxis respectively increased fares in 1997 and 1998, and the business of taxi drivers has become very difficult in the past 10 years due to the increase of oil prices and taxi rental, as well as the vicious competition posed by the "discount gangs". Moreover, as a result of the recent financial

tsunami, business has substantially dropped, and it may be said that there is one disaster after another.

Early this year, the Government approved a \$1 flagfall fare increase for taxis, and we can say that spring has come late. Even though this fare increase will bring a driver an additional income of \$20 to \$25 each shift, it is not enough to make up for the impact of a surge in oil prices on the trade. LPG prices have more than doubled in the past few years, rising from around \$2 a litre to \$4.5 now. Furthermore, the rental of an urban taxi was originally \$320 for one shift but, after a fare increase last year, the rental is now \$350 for one shift.

Some taxi drivers sighed in despair because, in the wake of the financial tsunami, though they used to have a turnover of \$700 a day on average in the past, they now have around \$600 only. Deducting LPG cost and taxi rental, their net daily income is only around \$200 and even less on average, which is even not enough for paying the taxi rental.

It is worth our concern that there are a lot of "discount gangs" in the trade, which have not only distorted the taxi trade but also made some passengers seriously titled towards a certain group of taxi drivers, rendering law-abiding drivers immediately getting the worst of it.

Certainly, there must be a market demand to attract more and more taxi drivers to join the "discount gangs". The trade has estimated that around 60% of the urban taxis, that is, around 10 000 taxis have joined the "discount gangs". This may be an overestimation. Yet, it is not hard for the passengers who frequently take taxis to find that more and more taxi drivers would offer a 20% discount on the metered fare to solicit passengers, and the taxi drivers even give the passengers name cards for contact before they get off the taxis, hoping that the passengers will continue to use their services, without any attempt to avoid arousing suspicion. The situation of the taxi trade being led by the "discount gangs" has become increasingly serious, and the authorities must address the problem squarely.

Therefore, in the current fare adjustment proposal of "raising short-haul fares and lowering long-haul fares" approved by the Government, the part on "lowering long-haul fares" is exactly proposed to deal a blow to the "discount gangs" while "raising short-haul fares" is proposed with a view to increasing the income of taxi drivers. Actually, taxis are by nature a private mode of transport.

At present, the mode of operation of the taxi trade in Hong Kong is too unitary, and the passengers may hire taxi services in two ways: through telephone booking or by hailing on the street. Hence, the scale of the market is too small and business is unstable.

In the long run, the authorities should assist the taxi trade in making the fullest use of its advantages, and proactively exploring new markets on the basis of quality services, for instance, comfort, privacy, speed and point-to-point travel. When the market grows bigger, the situation of the taxi trade will be greatly improved and the income of taxi drivers will also be increased, and the trade will cease to be a typhoon shelter for the unemployed.

President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): President, in the wake of the financial tsunami, many people would like to see how the Government can help them solve their livelihood problems and save Hong Kong people. All of us are racking our brains and we wish to come up with good strategies for the Government. But sometimes I think that if the Government can keep the gate well in all policy areas, it will be doing the public a great service. We are debating today the motion relating to taxi fares, and the Government's current proposal is "raising short-haul fares and lowering long-haul fares", and its objective, as we all know, is to deal a blow at the "discount gangs". I believe Honourable colleagues must have taken taxis offering a 20% discount. When we step into the cabin, we will see five to six mobile phones in front of the steering wheel. I am very scared when I see those phones because the driver will answer the calls when he is driving, and I have heard that the drivers would also send SMS messages, actually in detriment to driving safety.

On the other hand, it seems that the operating mode has now developed into group operation. Evidently, given group operation, more and more drivers will join the "discount gangs". Frankly, few drivers joined the gangs at the very beginning but, when the situation has gradually spread, the drivers have finally realized that not joining the gangs is out of the question.

For this reason, if the Government does not keep the gate well in this connection, it will actually not be able to help these drivers and it will conversely foster the development of "discount gangs", and encourage the drivers to risk

offending the law, which will sometimes pose a threat to passenger safety. In fact, the current proposal by the Government cannot solve the problem. If long-haul fares are lowered in the hope of giving the "discount gangs" less room of survival, I wonder if it would be feasible and we have doubts about the effectiveness of the proposal. Of course, the Government will make the "discount gangs" earn less and narrow the difference between taxi fares, but there will after all be incentives for the continuous development of the "discount gangs". If the incentive still exists, it will be conducive to the continuous survival of the "discount gangs". Moreover, lowering long-haul fares will actually affect the drivers' income. I believe the drivers' heartfelt wish is "raising short-haul fares and freezing long-haul fares". In this way, a blow can be dealt to the "discount gangs" and they will once again have a stable income.

In fact, under the present circumstances, wage earners and professional drivers wish to have a stable income, but the Government has only come up with a compromised solution. I have constantly asked why the problem cannot be solved thoroughly. Certainly, a thorough solution lies in legislation on mandating charging taxi fares according to meters and prohibiting fare bargaining. Under the current legislation, the drivers shall charge fares according to meters, but there is a grey area insofar as fare bargaining is concerned, such that the passengers cannot be prosecuted. If the passengers cannot be prosecuted, some will ask how the Government is going to enforce the law. Can't it prosecute the passengers? Frankly speaking, it is actually unnecessary for it to prosecute the passengers because, if the relevant legislation is enacted to the effect that the passengers or the public understand that fare bargaining by taxi passengers is an offence, the passengers will naturally restrain themselves, and they will restrain themselves even though the relevant legislation is not enforced.

Of course, the Government has methods to enforce the relevant legislation; it can carry out "undercover operations", and it can do so in two ways. The Government can send undercover taxi drivers to carry out such operations on the passengers on the contrary. In that case, the Government will tell the public that it will carry out "undercover operations", the public will then have an idea that the Government will really enforce the law and they will take the relevant legislation seriously.

Lastly, I am not encouraging the Government to carry out "undercover operations" frequently, but I think that if the relevant legislation is enacted to

prohibit fare bargaining by both parties, it can definitely arrest the development of "discount gangs" and the passengers will know that they have to avoid doing so; the problem will then be solved. Unfortunately, the Government has not done so and it has adopted a compromised method instead. Even though the compromised method is adopted, as I have just said, it may narrow the difference but there will still be "discount gangs", and the drivers operating normally will have less income and their livelihood will be affected. I do not think this is the best option. The Government had better thoroughly solve the problem by making legislation to regulate the trade through prohibiting fare bargaining by passengers. Thank you, President.

MR WONG KWOK-HING (in Cantonese): President, I have brought with me today a prop used by the Taxi Branch of the Motor Transport Workers General Union during their petition — Don't be afraid, for this is a prosthetic foot. I wish to give the Government a Chinese idiom which describes this piece of legislation. It is "trimming the toes to suit the shoes". It means that as the size of the shoes does not fit and in order to suit the shoes, the toes have to be trimmed. This is just the same as another popular saying which literally means "cutting the toes to evade the worms". President, this is what the Government will end up doing with this piece of legislation.

"Raising short-haul fares" cannot really put the money into the drivers' pocket, because there is nothing to bind taxi owners not to increase the taxi rentals. Coupled with the economic downturn and the impact of the financial tsunami, consumer spending in the market is actually very slack. Frankly speaking, insofar as short-haul trips are concerned, the public will cut their transport expenses as much as possible so long as they have alternative modes of public. Can "raising short-haul fares" increase the income of drivers? Drivers have told me that this may not be the case. Can "lowering long-haul fares" really combat the "discount gangs" which offer passengers a 20% discount off the metered fares? President, even if they can no longer offer a 20% discount, they can offer a 30% or even 40% discount. This would only result in those law-breaching drivers resorting to cut-throat competition. This can neither combat the "discount gangs" nor enable the taxi trade to resume normal operation.

"Raising short-haul fares and lowering long-haul fares" is like trimming the toes to suit the shoes, making it impossible to maintain the lawful practice of

charging fares according to meters. The Government said that it would consult the trade in six periods of time to further listen to their views. President, honestly speaking, we have heard this over and over again. The taxi trade has kept on reflecting their views to the Government. They have staged petitions and processions, and they have even launched a slow drive for a number of times, but has the Government heeded their views? It is not the first time that this prosthetic foot is put in front of the Secretary. They have taken this prosthetic foot and this shoe with them to petition the Government and to show that this piece of legislation made by the Government now is like trimming the toes to suit the shoes. In spite of this, the Government has ignored them all the same.

Why can we not prohibit fare bargaining by passengers? Why can we not require all members of the taxi trade or taxi drivers to charge fares according to meters? That the Government has made this legislation and allowed such unlawful practices is encouraging the continuation of unlawful bargaining in the payment of taxi fares, resulting in violation of the law. The Government has set a very bad precedent, a very bad example. Many drivers have been maltreated for refusing bargaining proposed by passengers; they have been assaulted and beaten up, and these examples abound. While the Government may say that prosecution would be difficult, it can, in fact, collaborate with the trade. The trade can help the Government's prosecution in many ways.

Frankly speaking, if the Government connives at the existence of "discount gangs" in the taxi trade, it is tantamount to abolishing the system of charging fares according to meters, which will actually turn taxis into "illegal hire cars". In that case, the operation of the taxi trade will be plunged into greater confusion, and it would become more difficult for professional drivers to make a living and their safety would be exposed to greater risks.

In this connection, I hope that the Secretary, after reading the idiom of "trimming the toes to suit the shoes", can really think about this seriously and identify ways to ensure taxi drivers charge fares according to meters. If the Government does not even take the initiative to think of solutions to the problem, I think it would be a serious dereliction of duty on the part of the Government. The present approach adopted by the Government will only amount to further connivance of illegal practices by law-breaching taxi drivers and as market conditions slacken, the practice of offering a 40%, 30% or even 50% discount off

the metered fares will continue, dealing a serious blow to the living of law-abiding professional drivers.

Therefore, this stop-gap measure of "raising short-haul fares and lowering long-haul fares" is absolutely undesirable. I hope that the Government, having listened to the views of the Motor Transport Workers General Union, will amend the legislation as soon as possible to ensure normal operation in the taxi trade.

Thank you, President.

MR ANDREW CHENG (in Cantonese): President, on the question of "raising short-haul fares and lowering long-haul fares", we have expressed the view before that this direction can be considered for implementation, provided that it is supported by legislation against fare bargaining. I, therefore, take exception to the comment made by Mr WONG Kwok-hing earlier, that "raising short-haul fares and lowering long-haul fares" is not an option. My view is different from his. However, in handling the underlying interests of various sectors in the taxi trade, the Government's attitude has been like burying its head in the sand by adopting an ostrich policy.

With regard to the three major areas of work, the Government has only introduced the system of "raising short-haul fares and lowering long-haul fares" so far. The Government has nevertheless failed to do the most important job ensuring that the public and passengers will act lawfully. Added to this is that in the taxi trade there are taxi owners and taxi drivers who have different interests. Under the current policy of "raising short-haul fares and lowering long-haul fares", the flagfall charge has already increased from \$15 to \$16 and further to \$18 over a short period of time, an increase exceeding 10%, or 12.5%, to be exact. Against the current economic conditions, the fare for the first two kilometres has increased by 12.5% while the fare for the subsequent eight kilometres has increased by nearly 10%, or 8.6%, to be exact. Come to imagine this. Under the financial tsunami, such a large increase in short-haul fares would definitely deter some passengers from taking taxis, in which case the income of taxi drivers would drop. In respect of long-haul trips, a taxi fare of \$300 will be lowered to \$238.5, which is about 80% of the former fares, or equivalent to a 20% discount. I think the Under Secretary is aware that the "discount gangs" now offer not only a discount of 20%, as they even offer a

discount of 30% or 40%, and a 50% discount may be offered to frequent patrons. Such being the case, "raising short-haul fares" will deter short-haul passengers, while "lowering long-haul fares" will increase the fare discount. The resultant cut-throat competition would only deal a heavy blow to the economic benefits and income of the entire taxi trade, especially the law-abiding taxi drivers.

With the implementation of "raising short-haul fares and lowering long-haul fares", taxi owners would think that since fares are increased for short-haul trips — while they may not increase the taxi rentals for the first six months, but as Members all know, taxi owners who came to the Legislative Council had said sternly in a sense of justice that they supported the Government's proposal of "raising short-haul fares and lowering long-haul fares" — their true objective is to increase the taxi rentals in the long term. According to our estimate as explained earlier, "raising short-haul fares and lowering long-haul fares" will affect the business of law-abiding taxi drivers and what is more, they even have to face an increase in taxi rentals. I would like to ask the Under Secretary this question. Should taxi drivers go on a strike by lining up their taxis on roads or even resort to taking more drastic actions in society to give vent to their discontent, who would be held responsible?

These problems in the taxi trade have always been the greatest fear of the Government, and this is why the Government can never show us the courage and determination to solve these problems. The Government has been bogged down by unnecessary worries, fearing taxi owners on the one hand and fearing drivers on the other and now, it even fears the "discount gangs". The Government must not be apprehensive and it must show us its determination. President, the Government said that a review would be conducted within six months, but we absolutely think that this can brook no delay. I, therefore, specifically call on the Under Secretary to expressly tell us in his speech later that actions will be taken to tackle fare bargaining by immediately introducing legislative amendments. We are not calling for the imposition of penalty on passengers because in many cities, including Tokyo, Vancouver, Toronto, Beijing, Shanghai, Melbourne and Seoul, no penalty is imposed on passengers, but legislation is enacted to impose regulation on the trade, taxi drivers and operators. We are not suggesting that passengers be punished. We are just calling for actions to ensure that lawful practices are adopted by charging fares according to meters, so as to preclude arguments. This is what an advanced society should do, and this is the approach that everyone would wish to see. So, Under Secretary, please take actions to amend the law as soon as possible. Thank you, President.

MR RONNY TONG (in Cantonese): President, the Government has said time and again that this arrangement of "raising short-haul fares and lowering long-haul fares" can effectively crack down on the "discount gangs", but this arrangement has, in fact, completely failed to deal with the crux of the question. President, the crux is whether or not there is a policy on charging fares according to meters in Hong Kong. If so, why is there such a big loophole in law which allows fare bargaining by passengers?

We all understand that if passengers can bargain about taxi fares, market forces will naturally render the policy of charging fares according to meters virtually useless. Such being the case, why is this loophole not plugged? The Government said that the loophole is not plugged because enforcement is difficult as the act is performed with mutual agreement and so, it is difficult to catch the law-breaching citizens and drivers.

President, I think such a pretext is hardly acceptable because in making legislation, the principle should be whether or not an act violates social justice or whether or not it meets the needs of society, rather than whether or not enforcement will be difficult. More importantly, many similar acts of mutual agreement are, in fact, regulated by law, and never has it been said that legislation should not be enacted to prohibit an act due to enforcement difficulties. Sexual intercourse with an underage person is a case in point. Recently, we have even heard that having transactions with prostitutes controlled by syndicates may constitute an offence. How can this be enforced?

President, we have also seen many examples in which regulation is imposed only on one party. In fact, we may not necessarily have to prohibit a particular act. We need only punish just one party — I beg your pardon — punish both parties. For instance, with regard to the legislation on safety belt, it is provided in law that only the driver will be punished, but the driver has the right to refuse hire in order not to commit an offence. By the same token, if legislation is enacted against fare bargaining by passengers, there would be a law for compliance by drivers and they can refuse hire by any passenger who asks that the fare be charged not according to the meter, and this can, in fact, stem out the "discount gangs".

President, I think using enforcement difficulties as an excuse not to enact legislation to plug this loophole is a complete disrespect to the spirit of law, a complete disrespect to the rule of law. It also shows the lack of determination to

implement the policy which, as we maintained earlier, should be implemented, and that is, charging taxi fares according to meters.

For this reason, President, during the scrutiny of this legislation, I already expressed very strong opposition against it, and I could not accept the Government's position. But much to our regret, the vetting procedure does not allow Members to vote against the legislation or introduce amendments to it.

Here, I wish to explain briefly why amendments cannot be proposed. If we wish to legislate against fare bargaining by passengers, it would be necessary to amend the principal ordinance but when we scrutinized the administrative act, there was no room for us to introduce amendments to the principal ordinance. For this reason, there is simply no channel for Members of the Legislative Council to rectify this administrative and legislative mistake.

President, all I can say here is that we find this most regrettable. The Government appreciates the problem and yet, it has used all sorts of excuse to delay actions or prevent the implementation of this policy which, as we agreed, should be put in place, that is, the policy of charging taxi fares according to meters. I hope that the Government will, in the future, submit legislative amendments to the Legislative Council as soon as possible to plug this loophole in law, and this is the only way to truly solve the problem of "discount gangs".

Thank you, President.

MS LI FUNG-YING (in Cantonese): President, this adjournment debate today mainly arises from the fact that when the Subcommittee on Road Traffic (Public Service Vehicles) (Amendment) Regulation 2008 (the Subcommittee) scrutinized the Regulation, views were different and no consensus could be reached with the Government. Members' views were diverse partly because some taxi associations have strong views on the adjustment proposed by the Government to the taxi fare policy. Insofar as taxi fare adjustment is concerned, a more desirable approach should be for the trade to first reach a mainstream consensus on the rate of fare adjustment, which can subsequently gain the support of the Transport Advisory Committee (TAC) and acceptance by the Chief Executive, while this Council will mainly consider whether or not a balance can be struck between the interest of the trade and the overall interest of society. However, I found that the discussion of the Subcommittee was not conducted along this line.

The reason was that the Government had complicated the objective of making fare adjustments purely to increase drivers' income by seeking to improve the operation of the trade through this fare adjustment. For this reason, the discussion of the Subcommittee did not purely focus on whether or not the fare adjustment could strike a balance between the interest of the trade and that of society as a whole. Rather, the focus was put on whether or not the fare adjustment could improve the operation of the trade, hence turning the fare adjustment into a change of policy. The nature of the Subcommittee's discussion also changed as a result.

Here, I must first criticize the Government for making changes to the fare structure which has far-reaching impact on the trade by way of a regulation, but not a bill. This has greatly reduced the room for this Council to improve the provisions of the Regulation, and for this reason Members can only express their views on the Regulation in this adjournment debate today. Under the proposals of the Regulation, the new fare structure, or the so-called fare arrangement of "raising short-haul fares and lowering long-haul fares", proposed for Lantau and urban taxis will come into effect at the end of this month. Members basically have no choice, and this is most undesirable.

When considering this Regulation, I only stick to one simple principle and that is, how the overall income of drivers can be reasonably increased. In recent years, disregarding whether the economy is good or bad, there has been no improvement to the income of taxi drivers. The emergence of taxis offering a 20% discount off the fares is, in fact, a reflection of the continual worsening of the income problem of taxi drivers, as some taxi drivers hope that by offering discounts, they can make a few more trips and hence increase their income. Therefore, I respect in principle the consensus reached between the TAC and the taxi trade of lowering long-haul fares to provide a greater incentive for passengers to take taxis, thereby increasing the income of drivers. But on the problem of "discount gangs", I think the Government must take other measures to deal with it separately.

However, President, in view of the current situation, I have reservations about giving effect to the Regulation. Apart from the fact that the trade has different views on this arrangement, another reason is the drastic downturn in the global economic conditions. As the economy is adjusting downwards, the public's desire for taking taxis is shrinking, whether for long-haul trips or short-haul trips. I am concerned that the introduction of a fare structure which

lowers long-haul fares and raises short-haul fares in these extraordinary times will only bring more losses than gains to taxi drivers. Furthermore, in these extraordinary times, it will be difficult to review the effectiveness of the new policy. Thank you, President.

MR JAMES TO (in Cantonese): President, with regard to the revised fares, the Chairman of the Subcommittee, Ms Miriam LAU, has already made a report earlier. She said, among other things, that the Subcommittee is of the view that the new fare structure may not be able to effectively eliminate "discount gangs", and in this connection, some members even urged the Government to draw up a clear provision in law to prohibit fare bargaining by passengers, in order to ensure that passengers will pay fares according to meters.

President, I have some observations on this issue. From the angles of legal policy and penalty policy, we must ask: What are we talking about when we suggest prohibiting fare bargaining by passengers by way of legislation? Does it imply imposing criminal penalty on passengers who bargained about taxi fares? Certainly, criminal sanction can be imposed in various forms. It may be a fine, or even imprisonment in more serious cases. The Subcommittee has discussed what actions should be taken in the course of the deliberations.

According to my own observations, if, for instance, we are talking about buying pirated compact discs or CDs — I am not encouraging the public to buy pirated CDs — but buying pirated CDs is not a criminal offence and does not constitute a breach of law, but the buyer may be subject to civil sanctions. However, buying duty-not-paid cigarettes may entail criminal liability, for this will take away the revenue which supposedly belongs to the Government. In different cases or circumstances, we must carefully consider whether or not criminal prohibition should be introduced for, say, transactions involving a buyer and seller. All I can say is that while I understand that the Government is currently conducting consultation on criminal sanction for such acts as buying pirated CDs or illegal downloading, I have very strong reservations about adopting such a harsh measure of imposing criminal sanction on fare bargaining by passengers.

I understand that Prof CHEUNG Ng-sheung has written many essays on transaction cost or economics theories. I have read several of his essays and I

remember that he said to the effect that if some fees or the level of fees has seriously deviated from the market price to the extent that legislation must be enacted to require by mandatory means or to force them to be adjusted to a level close to that of the times, we may not be able to succeed unless we can take very vigorous enforcement actions.

I noticed that the Government is of the view that it would be most effective to tackle the "discount gangs" through the market mechanism. But frankly speaking, how do we know if the market mechanism works? Because there are the "discount gangs" in reality, which indicates possible deviation from the current fares. But of course, would there still be such serious deviation after the fares have been increased or after raising short-haul fares and lowering long-haul fares following the introduction of amendments? Or would it already be marginally close to the effect of vigorously combating the "discount gangs"? I think all these are still unknown for the time being.

But lastly, I wish to point out that if serious deviation from the market level continues to exist after we have made the amendment, which would continuously allow room for the survival of the "discount gangs", we would really have to think about what actions to take. If we really have to enact legislation, we may have to provide for the use of vigorous enforcement actions, and the employment of such means that the police, in enforcing the law, may be involved in a lot of conflicts with taxi drivers in many of their operations. So, in the meantime, we must consider this very carefully because if the police would eventually be involved in conflicts very extensively during their enforcement operations, I would think that this may not be a feasible and wise move to make for the time being.

MR CHEUNG KWOK-CHE (in Cantonese): President, with regard to this arrangement of "raising short-haul fares and lowering long-haul fares", I think it is implemented at a wrong time. It has been discussed for such a long time already, yet the sudden onslaught of the financial tsunami has caused a downslide of the entire economy. How many passengers will take a taxi after the arrangement of "raising short-haul fares and lowering long-haul fares" is implemented? Indeed, this issue is discussed with the objective of cracking down on the "discount gangs", but can the market mechanism deter those unlawful drivers? Many colleagues have expressed many opinions earlier on.

I think this arrangement will deal a blow to two groups of people. The first is the law-abiding drivers, because their income will drop suddenly and taxi owners may very likely increase their taxi rentals. The second group of people is the grassroots. In case of emergency, say, when people in Tung Chung have to go to the accident and emergency department of a hospital, they may have to take a taxi to Tsuen Wan. In that case, the grassroots will have to pay more in taxi fare. Under such circumstances, even the law-abiding drivers will face problems. As mentioned by Ms Miriam LAU just this afternoon, police enforcement actions only have a success rate of 1%. Should the police conduct a review of this? Is it necessary for the police to deploy a lot of manpower to carry out undercover operations? Certainly, at the end of the day, we will still have to discuss whether or not legislation should be enacted against fare bargaining by both parties.

President, I think the police will still have to take stringent enforcement actions against law-breaching drivers in the short term. In the long term, it is necessary to study the making of legislation against fare bargaining by both parties. I think the Government must listen to our voices. I so submit.

MR IP WAI-MING (in Cantonese): President, the origin of "discount gangs" can actually be traced to the SARS outbreak in Hong Kong in 2003. The economy then was in the doldrums. The business of many taxi drivers had dwindled. Coupled with the fact that the mechanism for increasing and decreasing the fares of taxis was actually rather rigid, some taxi drivers, in order to make ends meet, negotiated fares with passengers on their own initiative, and these bargaining activities subsequently developed into a network for enticing business. I think this is actually the background of the emergence of "discount taxis". Although the root of the problem lies in the rigidity of the work of the Government, the emergence of "discount taxis" has caused further divisions in the local taxi trade in which views are already divergent and consensus is difficult to reach.

Faced with this development or unfairness in the trade, the Government should, in fact, take actions to set things right, so as to restore normal operation of the trade and ensure that both passengers and drivers will pay and charge fares according to meters and do not bargain fares. The Government should also work out for the trade a fare level which is competitive and which can increase

drivers' income, in order to eliminate the so-called "discount gangs". But we find it disappointing that the Government has not heeded the views of the Motor Transport Workers General Union; nor has it heeded the views of many Honourable colleagues. It has not introduced legislation against fare bargaining by passengers to eliminate such unfairness. On the contrary, the Government nevertheless proposed the arrangement of "raising short-haul fares and lowering long-haul fares". While this arrangement may be meant to crack down on "discount gangs", it has actually led to greater and more acute conflicts within the trade. I can still remember vividly those very acute conflicts among the taxi associations when we listened to their views in this Council the other day.

Under the impact of the financial tsunami, the introduction of "raising short-haul fares and lowering long-haul fares" has rendered many drivers on tenterhooks. Is this arrangement good or bad to them? It is really difficult for them to make a choice. They are worried about whether the number of short-haul passengers will drop after the fare increase. Indeed, we also do not know whether or not long-haul passengers will take a taxi for long-haul trips less often because of the economic downturn, or whether some other "discount gangs" will resort to cut-throat competition by offering steeper discounts, in which case members of the trade will gain even less benefits under the new fare arrangement.

However, the Government actually cannot inspire any confidence in the drivers. We, therefore, still hope that the Government will show greater determination to respond to the views of taxi associations, including the Motor Transport Workers General Union, as well as the views of Members of the Legislative Council and conduct studies on ways to forbid fare bargaining by passengers. Here, we still hope that the Under Secretary will respond to the request that we made in the Subcommittee and introduced a proposal on prohibition of fare bargaining by passengers in six months' time for discussion by the Legislative Council. I hope that the Under Secretary can give us a response in this connection and undertake to table a proposal to us in six months' time.

I so submit.

DR MARGARET NG (in Cantonese): President, perhaps the Under Secretary can explain to us later why the Secretary is not here for this debate. President, the emergence of "discount gangs" is actually fostered by the Government. Because in reply to questions government officials had said that the law only

prohibits fare bargaining by drivers, but not fare bargaining by passengers and so, taxi drivers are prohibited from fare bargaining, whereas passengers can bargain about taxi fares. Such an interpretation is indeed most ridiculous because fares are charged either according to meters or not according to meters. If metered fares are fixed fares, then compliance by all is required. In fact, when reading the law we should not just read a small section of it. We should read the whole of it. Let us look at taxi fares chargeable by taxi drivers. Legislation has to be made to endorse the fares, and even the meters are subject to inspection by the regulatory authorities and in such a painstaking manner that the meters have to be sealed. Any taxi driver who breaks down or tampers with the meter will break the law. Why does the Government have to do all these things? The purpose is to ensure payment of taxi fares according to meters.

President, this actually has its meaning. First, anyone who goes on a tour knows that he may take a taxi. Why do we take taxis but not the other modes of transport? Because when we take a taxi, we know that there is clear protection and that is, fares are charged according to meters and we will not be cheated. Hong Kong is a tourist centre. We certainly must have in place such a system.

Moreover, if, when traffic is busy, everyone tries to drive a bargain after getting on a taxi, that would cause chaos to the traffic and safety would hence be compromised. In fact, when we hail a taxi, it signifies that we agree to pay taxi fares according to meters. Therefore, it is very clear that taxis must charge fares according to meters and fare bargaining is prohibited.

When fare bargaining by one party is prohibited, it means that any one of the parties cannot bargain about the fare because if one party can bargain about the fare, does it not mean that fares can be bargained? If fares can be bargained, does it not mean that the metered fare is for reference only? If it is for reference only, why do we need to take so much trouble to provide safeguards in law? So, taxi fares must be paid according to meters, and both parties cannot bargain about fares. Even if it is proposed by the passenger, the taxi driver cannot accept it. This should be very clear.

Some colleagues suggested making legislation against fare bargaining by passengers. This, I think, is unnecessary. The proposal that passengers who bargain about fares should be punished and would commit an offence is, in my view, unnecessary. What we need to do is to provide that taxi drivers are not allowed to accept fare bargaining. So long as taxi drivers can say to passengers,

"Sorry, I cannot accept it because if I do so, I would break the law.", fare bargaining will not become a common practice.

But government officials, after looking into the law, outrageously said that the law seems to be not very clear. In fact, if officials consider that the policy is clear — I think the policy is very clear — but there are loopholes in enforcement, then they should amend the law, and it is not the case that we have never done this before. Very often, legislation has to be amended and refined. Why should it be difficult at all? But the officials said that they must ascertain the proportion of taxi drivers who will abide by the law and that of those who will not abide by the law, and then they will work on the basis of the majority view. How ridiculous indeed. The law may not always be perfect, but the Government is saying that it does not know the law, and this goes to show that the Government does not observe any principle or rules. Now, taxi drivers hold that the law is most unfair to them because law-abiding drivers are penalized, whereas drivers who do not abide by the law have nevertheless gained benefits. This we cannot allow in our society where the rule of law is upheld.

So, President, I have risen to speak today mainly because the current situation of fare bargaining in the taxi trade has directly affected the rule of law. Some taxi drivers have told me that this is, in fact, a chance for corruption or bribery because after paying the discounted fare, many people would ask for a receipt of full fare for reimbursement from their company. It means that drivers are made to assist unlawful passengers to deceive their company. How could we allow this to happen? For this reason, President, I am very much against this attitude of the Government. Thank you.

MISS TANYA CHAN (in Cantonese): President, let us think about this. A taxi is racing on a highway at over 100 km/h. Apart from taking the passenger to his destination, what else can it do? I can give Members three seconds to make a guess. One, two, three; time is up, and let me tell you the answer. It turns out that this taxi, firstly, is a mini showroom of mobile telephones. I had an adventure yesterday. I am not kidding. I was in a car and saw in a passing-by taxi there were eight mobile telephones arrayed in a single line. The models of the telephones are all different because I had specially looked at them and found that none was of the same model as another one. I had wished to take a photograph but did not have the time as the taxi moved away. It was indeed an eye opener to me.

Apart from being a showroom of mobile telephones, this taxi is also a mobile taxi paging station. The driver drove on the one hand and took orders from the telephones on the other. Then he would press the buttons to send the orders to his fellow drivers, and what he did could entirely replace the lady workers of taxi paging companies. The taxi was indeed a mobile taxi paging station. I believe Members must have seen these multi-purpose taxis, and we just need to take a look at them to know that this is the standard layout of taxis of "discount gangs". Sometimes, the driver may jot down the telephone numbers on a notebook.

But honestly, how many people dare taking these taxis? I would be the first to show a white flag because I think this is not just a legal issue, but also a safety issue. Think about this: A taxi driver drives on the one hand and answers telephone calls on the other; and if Members have paid attention to them, they will find that the driver often uses a Bluetooth device on both ears connecting two telephone lines. The taxi driver answers telephone calls and writes down the telephone number; then he presses the buttons with his left hand to send the orders just received to his fellow drivers. He does one thing with his right hand and another with his left. Does he have a third hand to drive or a third eye to watch the conditions on the road? I really do not know. This is entirely acrobatics. But, unfortunately, we have seen on roads and highways many such taxi drivers performing acrobatics.

What is more, in order to pick up their passengers, the "discount gangs" will outrageously turn themselves into Andy LAU as in "Full Throttle", or Takumi FUJIWARA in "Initial D", fantasizing that they are racing in the Macau Grand Prix as they drive like mad and practise "drifting" on roads. I have ridden in such taxis before. If you are lucky, you may still reach your destination safely even though you are inside a taxi with such a layout so long as the driver has no order to take. But if you ran out of luck when in the middle of the trip he took an order, you would have to keep your fingers crossed. He will take you to your destination at breakneck speed and then dart to pick up the next passenger. You are very likely to hear him say that he is now in Siu Sai Wan and he can reach Central in 10 minutes, while you are actually heading for your destination in Siu Sai Wan.

I do not drive and I do not have a chauffeur. I often take a taxi when I go out. Now that "discount gangs" are rampant and very often, after I have boarded a taxi I would ask the driver what he thinks about "raising short-haul fares and

lowering long-haul fares". Sometimes they would helplessly say that this is better than nothing or this is better than seeing "discount gangs" snatching passengers from them. At times when I ran into bad luck and got on a taxi of the "discount gangs", I would get a vomit bag ready most of the time, because I would get motion sickness. I wonder whether the money hence saved should be spent on sickness pills or tranquilizers.

Recently, President, when taking a taxi I had talked with the driver for a long time. They feel that it is really difficult to make a living now. They have abided by the law as they have all long charged fares according to meters, but those "discount gangs" have kept on snatching business from them and what is more, they are even operating in syndicates. Some drivers even told me that they are represented by taxi companies and drivers who wish to join the "discount gangs" have to pay the companies. The taxi companies will guarantee that the driver will be allocated with a certain number of trips and when there are urgent orders, the driver will be called to take these orders, and if the driver is not obedient, he will be given the more knotty orders, or orders which are not worth taking but are too bad to be given up.

It is now difficult for law-abiding drivers to make ends meet. And added to this the black sheep in the trade, their survival has become even more difficult. Certainly, we must first take actions to protect the law-abiding drivers and root out the "discount gangs". The first and foremost thing to do is to amend the law to prohibit fare bargaining by drivers or passengers outright. It is best to charge fares according to meters because fares are clearly shown on the meter to provide safeguards to both parties and better still, this has been a good tradition. Then, efforts must be made in enforcement. In fact, it is indeed easy for the police to take enforcement actions against the "discount gangs", but we do have doubts about whether the Government is rather incompetent in enforcing the law. I hope that the Government will take speedy actions to crack down on the "discount gangs". It must not think that hunting down criminals and robbers is the only right thing to do.

President, "raising short-haul fares and lowering long-haul fares" is indeed a measure which can cure only the symptoms but not the root of the disease. But since the Government is at its wits' end as to how enforcement actions can be taken against the "discount gangs", we can only accept it reluctantly. I so submit. Thank you, President.

MR LEUNG YIU-CHUNG (in Cantonese): President, Ms Miriam LAU made a report earlier on. She pointed out that Members had held different views during the discussions of the Subcommittee, which also reflected that views were diverse in the trade. This is true, President. It is really not easy to come to a clear, consensual view on this issue. As we all know, "raising short-haul fares and lowering long-haul fares" is introduced to serve two purposes. One is to increase the income of drivers; the other is to combat the "discount gangs".

Given the recent economic downturn, we are very concerned about whether people will still take a taxi for short-haul trips after the increase in taxi fares. If short-haul passengers are deterred, taxi drivers will have to wait for long-haul passengers and since long-haul fares have been lowered, does it not mean that they will make more losses than gains without being able to increase their income? Meanwhile, in respect of combating "discount gangs", as many colleagues said earlier, their activities still could not be curbed if they would offer higher discounts. So, there have been continuous arguments over this issue. What does this reflect? It reflects the question of whether the taxi fare adjustment mechanism is still appropriate and whether there is a need to conduct a review afresh. This is the most important question. Otherwise, the problem can never be solved.

Today, a group of taxi drivers in the New Territories told me that they would also face problems if they accept the new mechanism. If short-haul fares were raised by \$2, they considered the fare too expensive and were worried that this would deter passengers from taking taxis and so, they counter-proposed an increase of \$1. I hope that the Government would take on board this view because they do not know what channels there are for them to express their views. Moreover, the consultation cannot be considered as extensive enough as the proposal was merely discussed through the very narrow mechanism of the Transport Advisory Committee. What can these drivers do if they wish to express their views? It is not that easy for them to do so. I, therefore, would like to point out for them, and especially for taxi drivers in the New Territories, that they really do not wish to see such a big fare increase, so as to maintain their commercial viability. This is what I would like to say in passing.

I think there is another more important point. Why are there so many controversies and both supporting and opposing views? The reason is that, as a

Member said earlier, the arrangement is implemented at a wrong time when the economy is in the doldrums. The economic conditions were different back then when the fare increase was proposed. The economy was prospering at that time, just that the economy slid into a downturn when the arrangement was about to take effect. As I said earlier, is improvement warranted in any aspect of the adjustment mechanism? This is the first issue to be addressed.

Moreover, the trade has been talking about another problem and that is, excessive fluctuations in the prices of liquefied petroleum gas (LPG). Taxis have to increase their fares because LPG prices are too expensive and drivers can only rely on the fare adjustment to make up for the increase in cost. I think the Government should consider lending a helping hand in respect of the LPG prices. This is more important, a problem they have to face every day. Even if fares were increased by \$1 or \$2, such increase would not help at all if LPG prices kept on rising. In fact, as we all know, even for the other types of vehicles, they also face the problem of oil prices and gas prices being increased quickly but reduced slowly. If this is not thoroughly tackled, the crux of the problem can never be addressed.

I very much agree with the question posed by Dr Margaret NG just now. What is the purpose of the meter? It really beats me. We all should pay according to meters and yet, people can bargain about fares and if they can bargain about fares, what is the purpose of the meter? If passengers are allowed to bargain about fares, what can the drivers do? If a driver does not accept fare bargaining, the passenger will turn to another taxi instead. In fact, many drivers have told me that their situation is really very miserable. Law-abiding drivers who insist on charging fares according to meters have suffered from slack business, unless they are willing to yield and accept fare bargaining. President, what good does it do? The law is supposed to do good to the trade but now, what good does it do? On the contrary, it has given rise to this phenomenon.

Even though the Government proposed the arrangement of "raising short-haul fares and lowering long-haul fares" with a good intention, I am afraid it will turn out to be doing a disservice to the trade despite its good intention, without being able to solve the problem. Worse still, it may even create a burden and bring about bad consequences. This is actually my greatest worry.

President, I so submit.

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

MS EMILY LAU (in Cantonese): President, I speak on behalf of taxi drivers (but not taxi drivers as a group). As I take a taxi every day, many taxi drivers have poured out their grievances to me. They know that this issue will be examined by us in the Legislative Council today and they often asked me when it would be passed. I did make an enquiry in the House Committee, and found out that since no one would propose to repeal this amendment, the new arrangement will take effect from the 30th (November).

Most of the drivers who poured out their grievances to me are supportive of the amendment. They consider and hope that the problem can be solved after the new arrangement is passed. But President, as you have heard what many Members have said, you will understand that we actually still have a lot of misgivings and worries. I agree with what Ms LI Fung-ying said. It is very ridiculous that such a complicated issue as this has to be handled by way of an adjournment debate.

President, with regard to fare bargaining — I do not know if this is true, but it seems that this practice started from the outbreak of SARS, as there had not been such cases before. During the SARS outbreak, as business was very sluggish for taxis, some people considered that taxi drivers were suffering greatly and suggested the drivers to charge lower fares, in order to attract passengers. The practice thus began, and it seems that this was even initiated by the Government. If the Acting Secretary knows what had happened back then, he can explain the facts to us later. I remember that nobody would bargain fares when taking a taxi before that. The people of Hong Kong, whether they are drivers or passengers, all abided by the law. But no one knows when these activities started and once they got started, things could never be restored to their original state. I would like to tell the Government that insofar as this issue is concerned, the public is seething.

Colleagues have talked about many problems earlier. A driver once told me that a passenger had asked for a 20% discount off the metered fare for a trip from Central to Tsim Sha Tsui. The driver therefore replied, "Why did you not as well ask for a free ride?" The driver said so because he was really furious. Besides, there were cases in which drivers who refused hire for this reason were beaten up and scolded. If we claim to be a society where the rule of law is

upheld, why have we degenerated to such a state? When Dr Sarah LIAO was in office, I had asked an oral question about why fares were not charged according to meters. She said to the effect that if the driver purposely made a detour to extend the trip, the passenger certainly would not wish to pay the fare according to the meter and so, there should be room for the fare to be charged at a lower level. She could even say such things in her reply.

President, this amendment will surely be passed because no one in the Subcommittee has proposed to repeal it and yet, every Member has kept on taking the Government to task. I have no idea what sort of a subcommittee it is. But even if it is passed, it still does not mean that the problem has been solved. Concerning the problem raised by Dr Margaret NG earlier, many drivers have also reflected it to me before. They said that passengers who asked for a 30% or 20% discount off the metered fares would at the same time request a receipt, in order to get a reimbursement of the full fare from their boss. In other words, they can even pocket the difference on top of the reimbursed taxi fares. Why can the system in Hong Kong allow such a thing to happen? I really do not understand why the Government has failed to address this problem for such a long time. Many people support payment of fares according to meters, which means paying fares at an amount exactly as that shown on the meter. President, will anyone bargain about fares when boarding a bus? Fare bargaining is impossible for other modes of transport, but it can happen for taxis.

So, taxi drivers are very angry. So are the passengers. I have advised my friends not to bargain about fares when they take a taxi, but some people will still do so, and they even asked what harm it will do if taxi fares can be lowered. In view of such a social environment, many drivers actually feel very much aggrieved and insulted. Sometimes they lose business opportunities and they lose long-haul passengers, and they are scolded by other people. So, I think the Secretary must address this problem. The approach adopted today is merely a makeshift solution to the problem, and I do look forward to reading the report after the completion of the review. President, some taxi owners said that they would not increase the taxi rentals for six months. Let us wait and see if they will honour their undertaking and now, everyone is already shouting for "Help".

I hope the authorities will understand that although no one has proposed to repeal this amendment, it does not mean that the problem is already solved. I hope that through this very short debate tonight, the Government can look into the boiling public sentiments in a focused manner, so as not to cause many taxis to

besiege the Government once again. I do hope that in Hong Kong where the rule of law is upheld, a reasonable, sensible and lawful arrangement will soon be devised to tackle this very problem that has been troubling Hong Kong for many years. Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Members have already spoken. I now call upon the Secretary for Transport and Housing to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, first of all, I would like to explain that as the Secretary has to attend a meeting in Guangzhou today, she cannot attend this meeting of the Legislative Council.

I will now come back to this legislative amendment. The entire issue reflects that the Government attaches importance to maintaining the order of the market of taxi services. The new fare arrangement will align the fare structure with the actual market conditions. This is a new policy on taxi fare structure proposed after extensive consultation conducted by the Transport Advisory Committee (TAC) on the basis of the proposal of "raising short-haul fares and lowering long-haul fares" made by the taxi trade after detailed and in-depth discussions. The majority of urban taxi associations support the early implementation of the new fare arrangement. Despite possible volatility in the market due to changes in the economic conditions in the short term, we will closely monitor the changes in the operating environment of taxis and maintain close communication with the taxi trade. We have agreed to review the situation within six months.

The taxi trade has experienced a lot of changes in its operating environment over the past decade or so. The development of new towns and major infrastructure projects in the remote areas of Hong Kong has resulted in an increase in passenger demand for long-haul public transport service. Meanwhile, other modes of public transport have continued to enhance their

network coverage and service standard, and they have provided passengers with fare concessions for long-haul routes from time to time. The competitiveness of the taxi trade in the transportation market, particularly in the long-haul sector, is encountering tremendous challenges. Added to this is the substantial increase in the operating cost of the taxi trade over the years, which has exerted a very heavy pressure on the operation of the trade.

In view of this, the Government invited the TAC to conduct a review of the mode of taxi operation, with a view to identifying feasible and appropriate improvement measures to expand the taxi trade's business opportunities, and at the same time providing competitive taxi services to meet passengers' needs. The TAC conducted consultation for more than three months to extensively invite views from the public and the taxi trade. It also studied the regulatory mechanisms and modes of taxi operation in overseas cities.

The TAC released the review report in June this year. With regard to the taxi fare structure, the TAC recommended that the policy on the taxi fare structure be changed from "front-loaded and the subsequent incremental charges being calculated at the same rate" to "front-loaded and thereafter on a varying descending scale for incremental charges". On the one hand, this can align the taxi fare structure with the fare structures of other modes of public transport such as railways, franchised buses and green minibuses to increase taxis' competitiveness, because the average trip-based fares of other modes of public transport are in general lower for long-haul trips than those for short-haul trips. On the other hand, the taxi operators will be given a fair and transparent opportunity to propose fares for long-haul trips at competitive rates to suit market conditions. This could help restore a level playing field for taxi operators whose business has been affected by taxi drivers offering discounts for long-haul trips.

With regard to the adjustment of the urban taxi fare structure, the trade conducted detailed and in-depth discussions, and after repeated deliberations in the Taxi Conferences of the Transport Department (TD), the trade made two similar fare adjustment applications proposing to raise short-haul fares and lower long-haul fares. Both applications, which are in line with the revised policy on taxi fare structure recommended by the TAC, were put forward by 30 urban taxi associations after lengthy and in-depth discussions. We believe these associations have fully considered the impact of these proposals on the operation of the trade, including the trade's competitiveness, as well as the opinions of members of the trade before making the applications.

In considering the applications for taxi fare adjustment, the Government has taken into account all relevant factors, including changes in the operating costs and revenue of taxis, public acceptability, and maintaining a reasonable differential between taxi fares and those of other public transport modes, and also the TAC's recommendations on the policy on the taxi fare structure. After considering and weighing all relevant factors, we adopted an arrangement that lies between the two applications made by the taxi associations. We hope that this will help ease the pressure on the taxi trade resulting caused by the increase in operating costs on the one hand, and help alleviate the problem of fare bargaining by aligning the taxi fare structure with the actual market conditions on the other. The TAC supported this new fare adjustment arrangement which was subsequently submitted to and approved by the Chief Executive in Council.

We are aware that some Members had earlier expressed opposition to the new fare arrangement and planned to propose an amendment to the extent of "raising short-haul fares and lowering long-haul fares". However, at the meeting of the Subcommittee on the subsidiary legislation on 28 October, we, together with a number of Members, received the representation of almost 20 taxi associations. The majority of members of the trade who spoke at the meeting maintained the views they held at the time when they submitted the applications to the Government and supported the new fare arrangement. They pointed out that taxi fares had not been adjusted for the past decade and the trade was faced with increasing pressure in their operating cost. They said that as taxi drivers were from the grass-roots sector, the new fare arrangement could help improve the livelihood of drivers and ease the pressure faced by the trade in operation due to increasing costs, while upgrading the competitiveness of taxis in long-haul services and reducing room for the operation of drivers who provided discount off the taxi fares. We understand that some taxi associations hold different views. However, we noted that the majority of taxi associations support and call for the early implementation of the new fare arrangement. Members who earlier planned to introduce amendments to the subsidiary legislation on the new fare adjustments have not proposed any changes to the amendment regulation put forward by the Government after learning of the views of the trade.

Some Members as well as members of the taxi trade are concerned about whether the new fare structure can effectively reduce the room for offer of discount in the trade, and there are views calling for legislation against fare bargaining by passengers. In the review of the mode of operation of the taxi trade conducted last year, the TAC also considered carefully the desirability and

feasibility of legislating against fare bargaining by passengers. On this, the TAC emphasized that taxi passengers should pay fares according to the meters to ensure order in the market. However, support for this principle does not equate to agreement to taking the extreme course of action to enact legislation to impose criminal sanction on passengers for fare bargaining. Legislative safeguards are already in place to protect both taxi drivers and passengers. On the one hand, the current legislation prohibits drivers from overcharging and on the other, it stipulates that passengers should pay the legal fare chargeable under the law and are prohibited from using obscene or offensive language or conducting themselves in a disorderly manner. Moreover, the TAC has sought the police's advice on the feasibility of enacting legislation to forbid fare bargaining by passengers from the enforcement perspective. The police hold that there will be difficulties in collecting evidence of such bargaining activities as none of the parties (being willing participants) will testify against the other and so, even if legislative prohibition is in place against fare bargaining by passengers, enforcement will be difficult. The TAC is concerned about the suggestion that a mere verbal enquiry about fare discount by passengers should attract criminal sanction as this will seriously deter the public, including tourists, from using taxi services.

Taking into account the above, the TAC does not consider that legislating against fare bargaining is a desirable and effective measure. The TAC considers that its recommendations on the policy on the taxi fare structure may help alleviate the problem of fare bargaining by giving the taxi trade more room to adjust its fare structure to align with the actual market conditions.

The TAC has also looked into the regulatory mechanisms of about a dozen other major cities, including Singapore, Tokyo, London, New York, Shenzhen, Beijing, Shanghai, New Zealand, Vancouver, Toronto, Frankfurt, Netherlands, Melbourne and Seoul. Taxi drivers in these cities are forbidden to charge an amount exceeding the statutory fare. The spirit of the regulatory mechanism in these cities is to forbid drivers from overcharging in order to protect consumers. The TAC has also noted that some of these cities also forbid charging taxi fares below the metered fares by stipulating payment of fares according to meters. In these cities, the stipulation of paying fares according to meters is enforced through regulating the taxi operators and imposing penalties on them.

The Government concurs with the TAC's views. The taxi trade should have a fair and transparent competitive environment to ensure order in the

market. As the problem of fare discount has arisen mainly from changes in the market conditions, the most effective solution is to tackle this issue through the market mechanism by suitably adjusting the fare structure and level to bring them in line with market conditions, and this is the way to most fundamentally address the problem.

Moreover, in considering whether a problem should be addressed by way of legislation, we need to take into account various factors. In terms of legal principle, is the imposition of criminal sanction proportionate to the severity of the conduct? From the perspective of legal policy, it is necessary to consider the consistency with the penalty for other similar consumer behaviour; the propriety of imposing penalty and also the targets of regulation. In this connection, we share the view of the TAC, that it is inappropriate to take the extreme course of action of imposing criminal sanction on passengers for fare bargaining. Insofar as enforcement is concerned, there are practical difficulties in collecting evidence, and with regard to the actual operating conditions of the taxi trade, it is necessary to consider whether or not the flexibility of taxi fares in catering for special circumstances will be compromised by stringent enforcement.

We consider that the fare adjustment for urban and Lantau taxis approved by the Chief Executive in Council should be implemented first, in order to align the fare structure with the actual market conditions. This will help enhance the competitiveness of the taxi trade in the long-haul sector, and reduce room for offering fare discount. In the meantime, the police will continue to carry out enforcement in earnest.

We will closely monitor changes in the operating environment of the taxi trade after the implementation of the fare structure adjustment, and will maintain liaison with the taxi trade. We will conduct more in-depth and detailed studies on the experience of other cities in ensuring payment of metered fares. Meanwhile, we will listen to and analyse the views of the trade through the TD's Taxi Conferences. We will review the situation in six months' time while maintaining liaison with the taxi trade and making concerted efforts to look into suitable measures to further improve the operating environment of the trade in the light of the actual conditions. We will report to the Legislative Council Panel on Transport information about overseas experience and the discussions with the taxi trade. We do appreciate that all trades and sectors are hard hit by the financial turmoil. We will closely monitor the operating conditions of the taxi trade and maintain communication with them.

We consider that the new fare arrangement can strike a balance among the considerations of all sides and help improve the operating environment of the taxi trade which can, in turn, benefit long-haul taxi passengers. It is, therefore, beneficial to both the taxi trade and passengers.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That this Council do now adjourn. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 3 December 2008.

Adjourned accordingly at twenty-six minutes past Nine o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Education requested the following post-meeting amendment in respect of a supplementary question to Question 5

Fifth line, second paragraph, page 41 of the Confirmed version

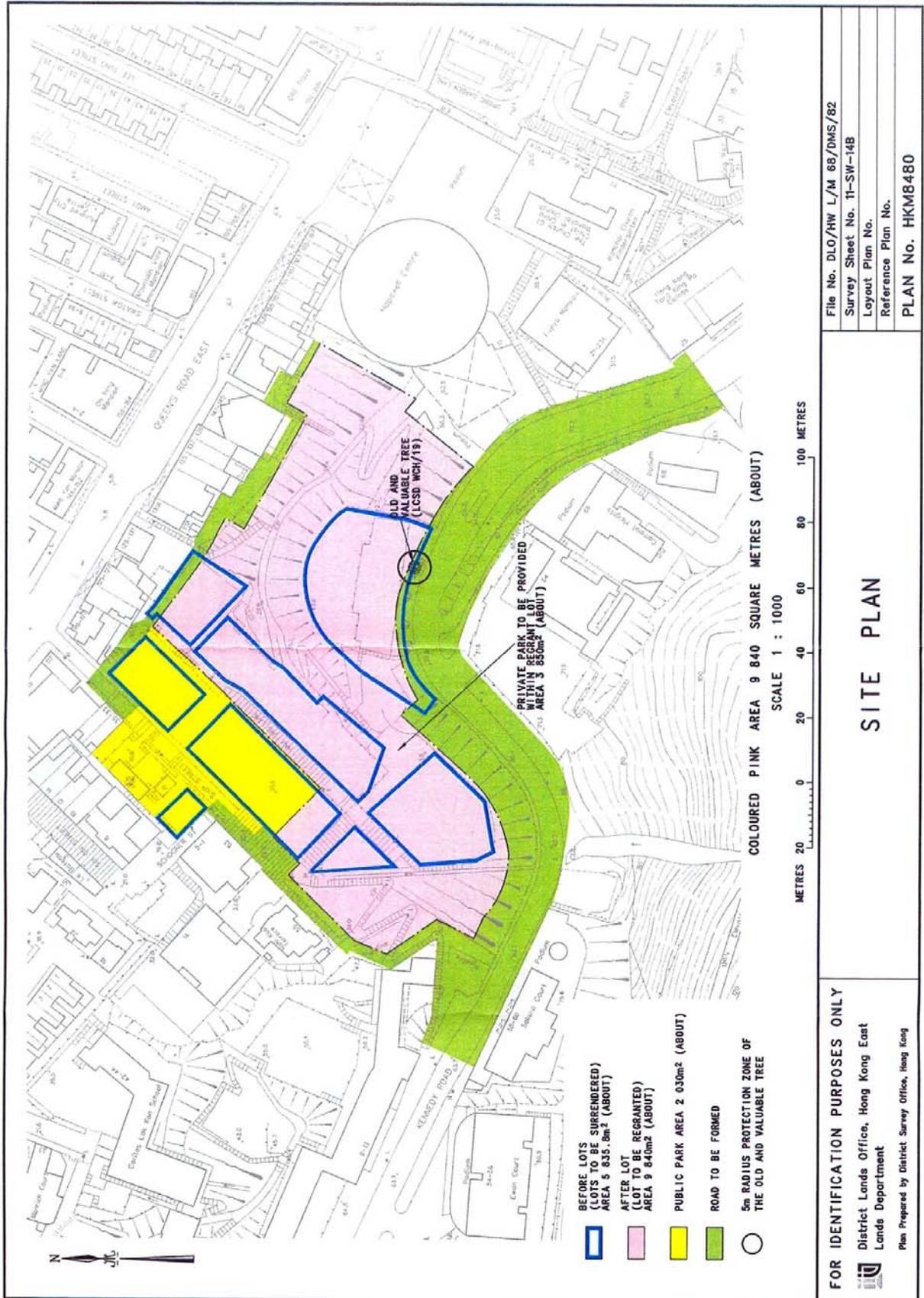
To amend "..... On the basis of 40 or so students in one class, students for one class" as "..... On the basis of 40 or so students in one class, students for one and a half classes" (Translation)

(Please refer to line 7 to 9, second paragraph, page 2192 of this Translated version)

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Development to Ms Cyd HO's supplementary question to Question 1**

As regards the method of land premium assessment for development or re-development projects, a site plan of the Hopewell Centre II Development Project and an information note on "Premium for Lease Modification" are attached for Members' reference.

WRITTEN ANSWER — Continued



WRITTEN ANSWER — *Continued*

INFORMATION NOTE

Premium for Lease Modification

The use and development of all private lots in Hong Kong are controlled by the lease governing the lots, which is a contract between the Government and the private land owners.

2. Upon development or redevelopment of the private lots, the land owners have to observe the lease covenants apart from the statutory provisions.

3. To facilitate the redevelopment of the private lots, the old lease conditions may have to be modified (to take into account also if deemed appropriate changes in land boundary through a land exchange) to keep pace with the change in circumstances. A land premium has to be paid for the lease modification (which may cover a land premium to reflect the benefit of any additional land that may be granted in some cases involving land exchange).

4. The premium is assessed based on the enhancement in land value of the lots under the modified lease as compared with the land value under the original lease. For example, if the lots worth some \$200 Million before the lease modification, but some \$500 Million after the lease modification because of the change in development potential, then a land premium of \$300 Million (\$500M-\$200M) will have to be paid for the gain in land value arising from the consent granted for the lease modification.

5. If the applicant disagrees with the premium figure, he may appeal against it on the understanding that the premium will be reassessed based on the value prevailing at the date of reassessment, which may be higher or lower than the original offer.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Education to Ms Emily LAU's supplementary question to Question 2**

As regards the number of students in aided special schools, in the 2008-2009 school year, there are 60 special schools providing about 8 400 aided school places. According to the statistics as of September 2008, about 7 500 students were enrolled in special schools. The overall provision of school places in special schools as well as in individual categories of special schools is considered sufficient.

Based on the assessments and recommendations of specialists and with parental consent, the Education Bureau places students with severe or multiple disabilities to special schools for receiving intensive support services. Categories of students admitted to special schools are: intellectual disabilities, visual impairment, hearing impairment, physical disability and moderate to severe behavioural and emotional difficulties.

In general, children who need to receive education in special schools are all provided with relevant school places in accordance with their respective categories of special educational needs. In cases where the parent only chooses a specific school or the student requires transfer to a school in another district in the middle of the school term due to removal, and yet vacancies are not immediately available at the school specified, the students concerned will be waitlisted.

Appendix III**WRITTEN ANSWER****Written answer by the Director-General of Trade and Industry to Dr PAN Pey-chyou's supplementary question to Question 3**

As regards the number of Hong Kong-based medical groups and enterprises which have entered the mainland market and the number of Hong Kong registered medical practitioners and health care professionals who have been working in the Mainland since the implementation of the Mainland/Hong Kong Closer Economic Partnership Arrangement (CEPA), according to the statistics maintained by the Trade and Industry Department, as at 30 November 2008, two organizations have been issued a "Certificate of Hong Kong Service Supplier" relating to medical and dental services, which certifies their eligibility for relevant preferential treatment under CEPA. As for medical practitioners and health care professionals, the Food and Health Bureau understands that a total of 18 medical practitioners and one Chinese medicine practitioner have obtained the "Medical Practitioner's Qualification Certificate" issued by the mainland authorities during the period from 2004 to 2007.

Medical service providers who have obtained a "Certificate of Hong Kong Service Supplier", and medical practitioners as well as Chinese medicine practitioners who have obtained a "Medical Practitioner's Qualification Certificate" can apply for operation and practice in the Mainland in accordance with the procedures and requirements stipulated by relevant mainland authorities. We are not able to provide specific statistics on the actual number of medical groups or enterprises that have started businesses; or Hong Kong registered medical practitioners who are now engaging in medical practice in the Mainland as they are not required to furnish such information to the Government of the Hong Kong Special Administrative Region or relevant professional bodies.