

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 May 2010

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE FRED LI WAH-MING, S.B.S., 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 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 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, S.B.S., 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 CHEUNG HOK-MING, G.B.S., J.P.

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

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.

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 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.

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

**MEMBERS ABSENT:**

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

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

**PUBLIC OFFICERS ATTENDING:**

PROF GABRIEL MATTHEW LEUNG, J.P.  
SECRETARY FOR FOOD AND HEALTH

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

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

**CLERKS IN ATTENDANCE:**

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**TAKING OF LEGISLATIVE COUNCIL OATH**

**PRESIDENT** (in Cantonese): Members will please remain standing for the taking of the Legislative Council Oath. Mr Alan LEONG.

The Honourable Alan LEONG Kah-kit took the Legislative Council Oath

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Dual universal suffrage in 2012. Abolish functional constituencies (FCs). Dual universal suffrage in 2012. President .....

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, will you please take the Oath.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, first, I have to thank my voters.

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, it is not the time to make a speech. Will you please take the Oath.

**MR LEUNG KWOK-HUNG** (in Cantonese): Do you not have voters? Do you not need to thank your voters?

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

**MR LEUNG KWOK-HUNG** (in Cantonese): First, I thank the 500 000 people for coming out and supporting this *de facto* referendum in the five geographical

constituencies. The elections have now ended, and we have the latest popular mandate. In this Special Administrative Region (SAR), the SAR Government has a mandate of 800 votes. In this Council, the Democratic Party, the Hong Kong Association for Democracy and People's Livelihood, as well as other political parties and groupings do not have a popular mandate .....

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, it is not the time to make a speech.

**MR LEUNG KWOK-HUNG** (in Cantonese): ..... On behalf of the 500 000 people concerned, I demand that the Government must accept dual universal suffrage in 2012 and abolish FCs .....

**PRESIDENT** (in Cantonese): Will you please take the Oath.

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

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

**MR LEUNG KWOK-HUNG** (in Cantonese): ..... the Alliance for Universal Suffrage must immediately cease its secret negotiations with the Communist Party of China and be accountable to the 500 000 voters .....

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

**MR LEUNG KWOK-HUNG** (in Cantonese): I say it again .....

**PRESIDENT** (in Cantonese): Please stop talking and proceed to take the Oath.

The Honourable LEUNG Kwok-hung made the Legislative Council Affirmation

**MR LEUNG KWOK-HUNG** (in Cantonese): End of one-party dictatorship. All power to the people. Pursue responsibility for massacre. Abolish FCs. Dual universal suffrage in 2012. No secret talks.

**PRESIDENT** (in Cantonese): Miss Tanya CHAN.

The Honourable Tanya CHAN made the Legislative Council Affirmation

**PRESIDENT** (in Cantonese): Mr Albert CHAN.

**MR ALBERT CHAN** (in Cantonese): President, before I take the Oath, can an opportunity be given to the Members who left this Chamber last time when we intended to read out our resignation speeches? They have not left this Chamber today, is it because they accept the validity of the votes of 500 000 voters; or is it because they have not received any instructions from the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office), so they stay here today .....

**PRESIDENT** (in Cantonese): Mr Albert CHAN, it is not the time to make a speech.

**MR ALBERT CHAN** (in Cantonese): No. President, I only wish to be given a special opportunity, if the President permits. Certainly, the President's permission must be obtained. I hope the President .....

**PRESIDENT** (in Cantonese): Members, the swearing-in of Members is a solemn ceremony. I hope all Members can uphold the dignity of this Council. Mr Albert CHAN, will you please proceed to take the Oath.



**MR ALBERT CHAN** (in Cantonese): President, I only wish to clarify, the question I asked just now is about the solemnity of today's legislature .....

**PRESIDENT** (in Cantonese): Mr Albert CHAN .....

**MR ALBERT CHAN** (in Cantonese): Last time, the Members concerned dampened the solemnity of the legislature .....

**PRESIDENT** (in Cantonese): Mr Albert Chan, will you please proceed to take the Oath.

**MR ALBERT CHAN** (in Cantonese): ..... and left this Chamber after receiving instructions from the Liaison Office. This dampened and .....

**PRESIDENT** (in Cantonese): Mr Albert CHAN, will you please stop talking.

**MR ALBERT CHAN** (in Cantonese): ..... damaged the solemnity of the legislature.

**PRESIDENT** (in Cantonese): Will you please stop talking and proceed to take the Oath.

**MR LEE CHEUK-YAN** (in Cantonese): President, a point of order. A quorum is seemingly not present. After counting, I find that there are only 28 Members. I wonder if this is correct.

**PRESIDENT** (in Cantonese): Please ring the bell to summon Members to the Chamber.

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

**PRESIDENT** (in Cantonese): Members will please stand up and we will continue with the Oath-taking ceremony. Mr Albert CHAN, will you please proceed to take the Oath.

The Honourable Albert CHAN Wai-yip took the Legislative Council Oath

**MR ALBERT CHAN** (in Cantonese): Referendum in five geographical constituencies; the people have asserted themselves; uprising through votes to liberate Hong Kong; abolish FCs.

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please return to your seat. Mr WONG Yuk-man.

The Honourable WONG Yuk-man took the Legislative Council Oath

**MR WONG YUK-MAN** (in Cantonese): Referendum in five geographical constituencies; the people have asserted themselves.

**PRESIDENT** (in Cantonese): Mr WONG Yuk-man, will you please return to your seat.

## **TABLING OF PAPERS**

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

Subsidiary Legislation/Instruments

*L.N. No.*

Electronic Transactions (Exclusion) (Amendment)

Order 2010 .....

54/2010

## Other Papers

No. 94 — Report of changes made to the approved Estimates of Expenditure during the fourth quarter of 2009-10  
Public Finance Ordinance: Section 8

No. 95 — Kowloon-Canton Railway Corporation Annual Report 2009

Report No. 10/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

## ORAL ANSWERS TO QUESTIONS

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

### **Dividends Collected from MTR Corporation Limited**

1. **MR PAUL CHAN** (in Cantonese): *President, the Government decided in 1999 to sell part of its shares of the Mass Transit Railway Corporation (MTRC) through an initial public offering. According to the Legislative Council Brief issued then, the public offering would provide a useful boost to government finance in the medium term. Shares of the MTR Corporation Limited (MTRCL) were listed on the Stock Exchange of Hong Kong in 2000. Subsequently, the Corporation and the railway operations of the Kowloon-Canton Railway Corporation (KCRC) were merged to form the MTRCL in 2006. Many members of the public have complained in recent years that transport costs in Hong Kong are very high, while the fare concessions offered by the MTRCL to disadvantaged groups and senior citizens are imperfect. In this connection, will the Government inform this Council:*

- (a) *of the amounts of dividends the Government received annually since the listing of the shares of the MTRCL in 2000; whether it has assessed how those dividends have specifically helped the*

*Government's financial situation each year, how far its financial position has been improved as a result, and whether such help is in line with its estimate and expectation at the time when the shares of the MTRCL were listed;*

- (b) of the names and expenditures of various transport support schemes that the Government implemented in the past five years; and*
- (c) whether it has considered allocating the dividends received from the MTRCL, or part of the dividends collected, to fund the implementation of schemes which offer appropriate transport support to members of the public in need; if it has, of the details; if not, the reasons for that?*

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

- (a) The MTRCL issued its Initial Public Offering prospectus in September 2000 and was listed on the Stock Exchange of Hong Kong in October the same year. On 2 December 2007, the Rail Merger Ordinance (11 of 2007) took effect and the Chinese name of the MTRCL was changed from "地鐵有限公司" to "香港鐵路有限公司". On the same day, the KCRC granted the MTRCL the right to use its assets to operate the KCRC's railway lines and its other transport-related businesses. The status of the KCRC as a statutory corporation and the status of the MTRCL as a listed company remain unchanged.

The amounts of dividends received by the Government from the MTRCL since the listing of the MTRCL in 2000 are tabulated at Annex I. Pursuant to section 3 of the Public Finance Ordinance (Cap. 2), the cash dividends that the Government receives from the MTRCL form part of the general revenue. According to the paper on Privatization of the MTRC submitted in June 1999 by the then Transport Bureau to the Panel on Transport of the Legislative Council, the Government expected that the privatization would

"provide a useful boost to government finance in the medium term". Such income referred to the one-off sales proceeds from the privatization exercise envisaged by the Government, but not the estimated dividends to be received by the Government annually upon the listing of the MTRCL. In fact, declaration of annual dividends is the commercial decision of the MTRCL.

- (b) The expenditures of the Student Transport Subsidy Scheme, Transport Support Scheme and Transport Supplement implemented by the Government in the past five years are set out at Annex II and brief descriptions of these three schemes are at Annex III.

In addition, major public transport operators are currently offering various kinds of fare concessions. The Government has all along been encouraging public transport operators to introduce fare concessions as far as possible to help reduce passengers' travelling expenses, taking into account the operators' respective operating and financial conditions, overall economic environment and passenger needs.

At present, the MTRCL provides fare concessions to the elderly, children, students and people with disabilities. Monthly passes are also available for some of the routes. As regards franchised buses, the bus companies are offering fare concessions to the elderly and children. Moreover, the bus companies have implemented section fare arrangement and bus-bus interchange concession schemes for about 70% of the bus routes. Most of the ferry operators also provide fare concessions to the elderly, children and people with disabilities. Monthly passes are also available for some of the routes.

- (c) As stated in part (a) above, the cash dividends that the Government receives from the MTRCL form part of the general revenue.

The Financial Secretary announced in the 2010-2011 Budget on 24 February that the Administration noted that there were many

suggestions calling for the extension of Transport Support Scheme which is currently limited to four designated remote districts in the New Territories only. In this connection, the Labour and Welfare Bureau will complete by the end of this year a study on ways to reduce the burden of travelling expenses borne by low-income employees in Hong Kong and come up with a specific proposal. In the meantime, the existing Transport Support Scheme will remain in force. The Administration will make suitable financial provisions in the light of the findings of the said study.

Annex I

Dividends received by the Government  
from the MTRCL since 2000

<i>Government Financial Year</i>	<i>Cash Dividends (HK\$ Million)</i>	<i>Scrip Dividends (Million Shares)</i>
2000-2001	N/A	N/A
2001-2002 <sup>(1)</sup>	372	48.9
2002-2003 <sup>(2)</sup>	470	88.0
2003-2004 <sup>(2)</sup>	0	108.2
2004-2005 <sup>(2)</sup>	652	84.8
2005-2006	760	74.4
2006-2007	777	53.6
2007-2008	765	52.5
2008-2009	806	43.0
2009-2010	920	56.0

Notes:

- (1) The MTRCL pays interim and final dividends to its shareholders annually since its listing. The first batch of cash dividends was declared in June 2001.
- (2) Under the Project Agreement, the Government waived its claim for dividends totaling about \$931 million between 2002-2003 and 2004-2005 to provide funding support to the MTRCL for the construction of the Disneyland Resort Line.

## Annex II

## Expenditures of various transport support schemes

	<i>Total Expenditure (in \$ million)</i>				
	<i>2005-2006</i>	<i>2006-2007</i>	<i>2007-2008</i>	<i>2008-2009</i>	<i>2009-2010</i>
Student Travel Subsidy Scheme (on school year basis)	386.2	370.1	377.8	337.9	334.9*
Transport Support Scheme (launched in June 2007)	N/A	N/A	11.9	80.6	98.4
Transport Supplement (launched in July 2008)	N/A	N/A	N/A	183	275

\* Up to March 2010

## Annex III

*Student Travel Subsidy Scheme*

The Government provides students from needy families with subsidies under the Student Travel Subsidy Scheme to assist them in meeting home-school travelling expenses.

The Student Travel Subsidy Scheme is a means-tested financial assistance scheme. Under the scheme, students who study in primary or secondary schools in Hong Kong or pursue full-time education in recognized institutions up to the first degree level and can pass the means test are eligible for travel subsidies, provided that they reside beyond 10 minutes' walking distance from their school and have to take public transport to go to school. They are either paid full grant or half grant subsidies, depending on the financial position of their families. The amount of full grant subsidy is equivalent to the student's average travelling expenses by public transport during the study period, and the amount of half grant subsidy is equivalent to 50% of the said average travelling expenses.

*Transport Support Scheme*

The existing Transport Support Scheme provides a time-limited transport subsidy as an incentive to encourage needy job seekers and low-income employees living in the four designated remote districts (that is, Yuen Long, Tuen Mun, North and Islands), where job opportunities are fewer and transport costs are relatively higher, to "go out" and seek jobs or work across districts.

Under Transport Support Scheme, each eligible applicant can claim transport allowance of up to \$7,800 (including an On-the-job Transport Allowance of \$600 per month for up to 12 months and a Job Search Allowance of up to \$600 payable on a reimbursement basis).

*Transport Supplement*

With effect from July 2008, a monthly transport supplement has been provided under the welfare programme to Comprehensive Social Security Assistance (CSSA) recipients with 100% disability aged between 12 and 64 and Disability Allowance recipients in the same age group to encourage them to participate more in activities away from home, thereby enhancing their contact with and integration into society. The amount of transport supplement is subject to annual review with reference to the Social Security Assistance Index of Prices and the current amount is \$210 per month.

**MR PAUL CHAN** (in Cantonese): *I wish to follow up the second paragraph of part (a) of the main reply, which mentioned that the listing of the MTRCL on the Stock Exchange of Hong Kong in that year sought to boost government finance as the Government could obtain one-off sales proceeds after the listing. In other words, the dividends issued by the MTRCL after its listing are unexpected profits to the Government. The Secretary listed in Annex I the amount of dividends the Government received in the past 10 years, and the total dividends amounted to \$5.522 billion while the total scrip dividends exceeded 600 million shares. If the total proceeds from these two types of dividends are calculated at yesterday's closing price of \$26.9 per share, the Government has received over \$22 billion in dividends in the past 10 years.*



*The expenditures of various transport support schemes in the past five years are listed in Annex II, and the total expenditures is only \$2-odd billion. Based on this figure, the projected expenditures in the coming 10 years will only be about \$4.3 billion, which is far less than the \$22 billion of dividends received. My question is: Given that the Government has received substantial amount of dividends from the MTRCL, and that this Council also passed a motion a decade or so ago, requesting the Government to implement a transport support scheme for people with disabilities, why has the Government not done so? Having considered the above figures, can the Government be more generous and implement the support scheme concerned at a faster pace?*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as a shareholder of the MTRCL, the Government receives annual dividends from the Corporation, which form part of its general revenue pursuant to section 3 of the Public Finance Ordinance, meaning that the dividends will be transferred to the general revenue of the Government. If the Government waives its claim for dividends, it is tantamount to drawing money from the general revenue. Hence, if the Government wishes to waive its claim for dividends and use the dividends for other purposes, it has to secure the support of the Finance Committee of the Legislative Council.

**MS LI FUNG-YING** (in Cantonese): *President, I wish to further ask a question in relation to Mr Paul CHAN's supplementary question just now. The Secretary said that if the Government intended to allocate funds for other purposes, for instance, providing transport subsidies for people with disabilities or for people working across districts, it had to secure the support of the Finance Committee. However, Members of this Council have all along reached a consensus on these two issues, why has the Government not taken any action? It is not a question of the Finance Committee not supporting these funding proposals, but a question of the Government not implementing them. May I ask the Government to explain why it is unwilling to implement the measures despite the fact that this Council has already indicated its support to them?*

**PRESIDENT** (in Cantonese): Which Secretary will reply? Secretary for Labour and Welfare, please reply.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Perhaps, let me answer this supplementary question. First of all, I thank Ms LI for asking this question. Regarding the two schemes she mentioned just now, I wish to first clarify that we have already explained in Annex III the issue of transport supplement for people with disabilities. In fact, with effect from July 2008, the Labour and Welfare Bureau has initiated a new scheme under its welfare programme to provide transport supplement to CSSA recipients aged between 12 and 64 with 100% disability and to Disability Allowance recipients in the same age group. The current amount of transport supplement for each recipient is \$210 per month. The annual expenditure incurred is quite large, amounting to about \$293 million and benefitting some 114 000 people. From this we can see that in order to meet the needs of people with disabilities, the Government already has specific measures in place to provide subsidies to them, thereby encouraging them to participate more in social activities and enhancing their integration into society.

Second, regarding the Transport Support Scheme mentioned by Ms LI, as I clearly said in my main answer, we are now conducting a study to seriously and comprehensively examining how best we can provide support to low-income employees. We need to provide a scheme which will cover far more than four remote districts and adopt a more macro perspective. We have also undertaken to complete the study findings before the end of this year and come up with a proposal.

Moreover, the Financial Secretary specifically said in paragraph 151 of this year's budget that the Government would make financial provisions in the light of the study findings. This clearly shows the Government's sincerity in dealing with this matter.

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

**MS LI FUNG-YING** (in Cantonese): *No, President. The Secretary has not answered part of my supplementary question. In relation to the provision of transport supplement to people with disabilities, the Secretary only said just now that CSSA recipients could be benefitted from this scheme; but this Council urges that all people with disabilities, not just CSSA recipients with disabilities, should be covered under the Transport Support Scheme.*

**PRESIDENT** (in Cantonese): Ms LI, I hold that the Secretary has already made a reply. If you are not satisfied, let me ask whether the Secretary has anything to add.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I wish to clarify one point. I said just now that there are two types of beneficiaries. The first type is CSSA recipients with 100% disability and their latest number is over 47 800, while the other type of beneficiaries are Disability Allowance recipients and there are about 66 900 of them. The number of these two types of beneficiaries are about 114 757 in total. This is the latest figure. In other words, a great many people have benefitted from the scheme.

Why do we have to concentrate on providing subsidies to these people? Members may remember that a few years ago the Legislative Council established a working group comprised of academics and organizations. After much discussion, they generally held that subsidies should firstly be provided to this group of people with the greatest need. We thus adopted a specific measure for them. Let me add that the MTRCL has also provided fare concessions since 22 December last year to these two types of people. In other words, we have made efforts in these two areas.

**MR IP WAI-MING** (in Cantonese): *I still think that the Secretaries have not answered the crux of the question. The MTRCL has paid a lot of dividends to the Government. Should the Government not use the dividends for the people? We said just now that this has to be endorsed by the Finance Committee. I believe if the Government is willing to submit funding proposals to the Finance Committee, our colleagues will endorse them. Thus, the crux of the question is whether the Government will do so. When we urge for comprehensive fare*

*concessions for the elderly, we do not mean that fare concessions for the elderly are only offered on Wednesday; and concessions should also be offered to people with disabilities. President, we have discussed this topic for more than 10 years, will the Government submit funding proposals to the Finance Committee to seek approval for using these dividends?*

**PRESIDENT** (in Cantonese): Which Secretary will reply? Secretary for Transport and Housing, please reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the supplementary question raised just now is about how these dividends will be used. As I replied just now, these dividends will form part of the Government's general revenue and the money will also be used for the people. If Members think that the Government should increase the expenditure on certain areas, they may request the Government to do so and the Government will listen to their suggestions.

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

**MR IP WAI-MING** (in Cantonese): *I asked the Government just now whether it would take actions, but he replied that the Government would listen to our suggestions. The Government has to respond to our questions, whether it will .....*

**PRESIDENT** (in Cantonese): Please repeat the part of the question which you think the Secretary has not replied.

**MR IP WAI-MING** (in Cantonese): *We now urge the Government to submit the relevant document to the Finance Committee to propose using these dividends as subsidies for travelling expenses .....*

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

**MR IP WAI-MING** (in Cantonese): *My question is whether the Government will submit the relevant document.*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, regarding the proceeds from the MTRCL, let me reiterate that such proceeds will be allocated to the Treasury and the money will certainly be used for the people.

**MRS REGINA IP** (in Cantonese): *Mr Paul CHAN pointed out in the main question that the Government sold part of its shares of the MTRC through an initial public offering in 1999. If my memory serves me right, the Government holds 74% of the shares of the MTRC, and the rest are listed in the stock market, thereby making it schizophrenic. If the MTRCL regards itself as a corporation largely owned by the Government, it should place public interest in the highest priority. It should consider how much concessions be given to the elderly, students and people with disabilities when setting the fares, or implement construction projects in response to public aspirations. However, very often the Government only concerns that the MTRCL has gone public and has to be accountable to its shareholders to seek maximum profits. Conflicts have thus occurred. As a matter of fact, many mass transport companies in the world are wholly-owned by the Government and the fares are cheap. For instance, in New York, the full fare is only \$2 and fares in Shenzhen are also very cheap. In this connection, may I ask the Government whether it will take the MTRCL into full public ownership so that the Corporation only needs to consider public interests rather than profits in its daily operation?*

**PRESIDENT** (in Cantonese): Which Secretary will reply? Secretary for Transport and Housing, please reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): We have all along been encouraging the MTRCL to provide various concessions to its passengers. The Chief Executive Officer of the MTRCL attended a meeting of the Legislative Council Panel on Transport in April this year to listen to members' views. We also urge the MTRCL to actively consider the views put forth by Members. With respect to Mrs Regina IP's question, at present the Government has not considered taking the MTRCL back under its ownership.

**MS MIRIAM LAU** (in Cantonese): *The Secretary stated in part (b) of the main reply that the Government has all along been encouraging public transport operators to introduce fare concessions as far as possible to help reduce passengers' travelling expenses, taking into account the operators' respective operating and financial conditions. The MTRCL does provide monthly travel passes, but it is a time-limited arrangement, and this monthly concession will be expired by the end of next month. By then, the travelling expenses of more than 80 000 people in the New Territories East and New Territories West will at least be increased by 50% to 90% immediately, and this is only the minimal increase. Moreover, residents in Tung Chung have long been complaining that they do not enjoy any monthly fare concessions despite living in a remote district; and they find it unfair that they have to pay their fares on a trip basis. Since MTRCL has been faring remarkably well, as reflected in the substantial and increasing amount of dividends paid to the Government every year, how will the Government encourage the MTRCL to extend the concessions of monthly travel passes, so that passengers in the New Territories East and New Territories West can reduce their expenses on public transport? Or will it encourage the MTRCL to continue providing monthly travel passes so that these passengers need not pay expensive travelling expenses?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): I thank Ms LAU for her question. I believe that at the last meeting of the Legislative Council Panel on Transport, the Chief Executive Officer of the MTRCL has already listened to Ms LAU's views, and we have also urged the MTRCL to actively consider them. I believe the MTRCL will later explain on issues concerning fare adjustments or the provision of concessions.

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

**MS MIRIAM LAU** (in Cantonese): *The crux of my supplementary question is how the Government will encourage the MTRCL to provide concessions?*

**PRESIDENT** (in Cantonese): Secretary, the Member asked how the Government will encourage the MTRCL to provide the concessions.

**MS MIRIAM LAU** (in Cantonese): *Can the Secretary answer in relation to how the Government will encourage the MTRCL to provide concessions?*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, there are government representatives sitting in the Board of the MTRCL. We will thus make use of various channels to encourage the MTRCL to provide concessions.

**MR WONG KWOK-HING** (in Cantonese): *President, I wish to follow up on the point that the Government is the major shareholder of the MTRCL. If the government representative — the Under Secretary is now present — is not schizophrenic, he should know that the Government is now playing two roles at the same time; that is, it is the major shareholder as well as the main decision maker of the MTRCL. In fact, why is it necessary to encourage the MTRCL? Hence, President, may I directly ask the Government why it needs to encourage the MTRCL? As the Government is the boss and the decision maker, it simply needs to make the decision. Moreover, Mr CHOW Chung-kong already said to me at the panel meeting that he would make such a consideration. Thus, may I directly ask the Secretary whether the Government will extend the \$1.1 billion*

*concessions to the public? The Government does not need to encourage the MTRCL. Will the Secretary please answer directly?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, perhaps, let me clarify a point. As a listed corporation, the MTRCL is accountable to its shareholders. Certainly, the Government is also one of its shareholders. We will, through different channels, urge the MTRCL to provide different concessions, taking into account the needs of the passengers and its own operation, so that the public can reduce their travelling expenses.

**MR WONG KWOK-HING** (in Cantonese): *President, the Government has not answered my supplementary question. He has twisted my logic. The biggest shareholder is now in front of us .....*

**PRESIDENT** (in Cantonese): Would you please repeat your question.

**MR WONG KWOK-HING** (in Cantonese): *Yes. I said that the Government does not need to encourage the MTRCL to provide concessions, it only needs to make the decision. Why has it not made the decision? It does not need to encourage the MTRCL at all.*

**PRESIDENT** (in Cantonese): Mr WONG, I think the Secretary has already explained the reason when he answered your supplementary question at the beginning. I thus hold that he has already made a reply. If you are not satisfied, please follow up this question through other channels.

**MR LEE CHEUK-YAN** (in Cantonese): *President, the government is schizophrenic, so are the Members who criticized the MTRCL just now, because they are the ones who endorsed the privatization of the MTRCL. Frankly, the outcome today is created by their support of the privatization. Hence, both this Council and the Government are sometimes schizophrenic.*



*I heard just now the Secretary say that the MTRCL would encourage the provision of concessions. But as a member of the Board, the Government is really not in a position to make such encouragement. Does the Secretary admit that there is a conflict of interests? In the past five years, the Government has already received \$4 billion cash dividends; it thus has an incentive to continue exploiting the people of Hong Kong and force them to pay expensive travelling expenses because it wants to pocket the money. Hence, despite the fact that the Secretary said the Government will encourage the provision of concessions, there is a conflict of interests. Will consideration be given by the Government to appoint Members of this Council as the four government representatives in the Board? We do not have any conflicting interests and we can act as the gatekeeper for the public. Will the Government resolve the problem of conflict of interests and stop appointing government officials as its representatives in the Board of the MTRCL?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): As the major shareholder of the MTRCL, the Government certainly has a position in the Board of the Corporation. Hence, the government representatives will implement the necessary policies which the Government has formulated, particularly policies concerning the provision of public transport services. Speaking of the dividends, as I said earlier, such dividends will be paid to the Government as part of the general revenue, which will be used for the general public. Moreover, such revenue is also an important source of resources to the Government, so I believe the Government will give full consideration to its usage before making funding proposals.

**MR LEE CHEUK-YAN** (in Cantonese): *President, the Secretary has not answered whether there is a conflict of interests.*

**PRESIDENT** (in Cantonese): Mr LEE, I think the Secretary has already given an answer. This Council has spent more than 23 minutes on this question. There are still four Members who are unable to raise their questions. They may follow up this issue through other channels. Second question.

**Housing Policy**

2. **MR LEE WING-TAT** (in Cantonese): *President, the Government put forward its first long term housing strategy (LTHS) in 1987, published the Long Term Housing Strategy Review Consultative Document in 1997, and announced the White Paper on Long Term Housing Strategy in February 1998. Under the strategy, the Government assisted needy people in acquiring their homes through assessing housing demand and implementing the Home Ownership Scheme (HOS) as well as other housing schemes. Yet, the Secretary for Transport and Housing stated at the meeting of this Council on 21 April this year that encouraging the acquisition of residential properties was not a policy objective of the Government. In this connection, will the Government inform this Council:*

- (a) *whether it has abolished the LTHS; if so, of the reasons for that, and whether it has conducted any extensive public consultation beforehand in this regard; if it has not abolished the strategy, of the contents of the existing LTHS;*
- (b) *whether the authorities have conducted any assessment of the demand for private housing since 2003 and planned the land supply on the basis of the assessment outcome; if an assessment had been conducted, of the outcome; if not, the reasons for that, and how land planning work has been undertaken having regard to the supply of residential flats; and*
- (c) *of the specific timetable and contents of the public consultation on the Government's subsidizing home ownership to be conducted by the authorities in the coming five months?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):  
President, my reply to part (a) of the main question is as follows:

- (a) In January 1997, the Government published a consultative document on LTHS to consult the public on the LTHS promulgated in 1987. In October of the same year, the Government announced major initiatives and new measures relevant to housing, and committed three pledges with specific targets:

- (i) set a long-term housing target, in which starting from 1999-2000, to build not less than 85 000 public and private flats a year;
- (ii) achieve a home ownership rate of 70% by end-2007; and
- (iii) reduce the average waiting time for public rental housing to three years by end-2005.

In February 1998, the Government published the White Paper on "Long Term Housing Strategy in Hong Kong", which outlined a number of strategies to help achieve these three specific targets by assessing housing demand regularly, providing a sufficient supply of land together with supporting infrastructure, shortening development procedures, drawing up a long-term flat production programme, and implementing subsidized housing schemes to enable those in the relevant income groups to buy their own homes, and so on.

In 2002, the property prices tumbled by over 60% against the peak in 1997, and the volume of transactions also showed a marked decline. The plunging net asset values in the private residential market had inhibited economic recovery and many owners found that their property values had declined, forcing some into a negative equity situation. To pump-prime the deflation-battered economy, the then Housing, Planning and Lands Bureau, under the direction of the Chief Executive, undertook a root and branch review of the Special Administrative Region Government's housing policy with a view to restoring the public's confidence in the property market. Before re-positioning the housing policy, the Government consulted widely among all stakeholders, including academics, the political parties, the Housing Authority, the Housing Society, representatives from various housing concern groups and resident groups.

The outcome of the review was that while the overarching objective of providing subsidized rental housing for families in need must continue to sit at the very heart of the Government's housing strategy, the Government should withdraw from its role as a property developer by halting the production and sale of subsidized flats and

reduce radically its share in the overall housing production. The Government should also set in train highly focused measures to redress the serious imbalance between supply and demand, and to restore the confidence of the public and investors in the property market. To this end, the then Secretary for Housing, Planning and Lands made a statement on 13 November 2002 which set out measures to rationalize the housing targets. He also clearly stated what Government's role should be in future. The Government would no longer pursue the first and second targets above, but would retain the third target of maintaining the average waiting time for public rental housing at around three years. He stressed that the role of the Government was to provide affordable rental housing to low-income households. The statement was intended to let all stakeholders and the general public have a clear view of the revised housing policy at that time.

The Government's housing policy remains that set out in the statement on housing policy made in 2002. Put simply, the policy covers three main areas:

- (i) the thrust of the Government's subsidized housing policy should be to assist low-income families who cannot afford private rental housing through the provision of public rental housing;
- (ii) the Government's role should principally focus on land supply. It should also withdraw as far as possible from other housing assistance programmes to minimize intervention in the market; and
- (iii) the Government must maintain a fair and stable operating environment to enable the sustained and healthy development of the private property market. The Government should ensure an adequate supply of land together with the necessary supporting infrastructure to meet market demand. As regards the quantum of private housing production, this should be a matter for the market to decide.

These three areas mean that the public housing is provided to satisfy basic housing needs. Home ownership is driven by market forces. The Government does not compete with the private property market.

When the Government repositioned the housing policy in 2002, it was considered that both the economy and the property market had gone through great changes from 1997 to 2002. It was therefore unnecessary for the Government to continue to hang on to the long term target of achieving a 70% home ownership rate. Home ownership should be a matter of personal choice and affordability. I must stress that this does not mean that the Government disregards the home ownership needs of the public. The Government's role is to target the supply end, so that the residential property market could develop in a steady and healthy manner.

- (b) Before replying to part (b) of the question, I would like to elaborate the areas of work of the Transport and Housing Bureau and Development Bureau in private housing.

The Transport and Housing Bureau is responsible for monitoring the development of the private housing market. To this end, the Transport and Housing Bureau would collect data on the private housing market, including the commencement and completion of private residential projects and units involved, and the expected volume of supply of private housing in the next three to four years. The Transport and Housing Bureau would regularly publish the relevant data for the reference of the public and departments. The Development Bureau is responsible for providing stable and adequate supply of the land through effective planning and use of land.

On the demand for housing in the private market, we have consulted the Government Economist. Our experience revealed that the hard figures estimated by any model could not accurately quantify demand, especially demand in the private residential market which may be affected by many factors, including changes in social economic environment, such as market sentiment, liquidity and interest rate, and so on, which would have an impact on demand. It

is very likely that any estimation would be very different from the actual situation. Hence, we repositioned the housing policy in 2002.

In relation to land use planning and land supply, we have consulted the views of the Development Bureau.

The Government's policy is to provide adequate land to meet the development needs of the community, and this involves long term planning work.

According to the Study on Hong Kong 2030: Planning Vision and Strategy released in 2007, it is anticipated that the existing built-up areas, including metro areas and new towns, can meet the land requirement for 70% of the population increase up to 2030, whereas the remaining 30% will be provided mainly by the two New Development Areas (NDAs). Therefore, the overall supply of housing land should be adequate to meet the needs of the projected population growth up to 2030.

The Government has, in accordance with the above development option, commenced the study for the NDAs in the North East New Territories (that is, Kwu Tong North, Fanling North and Ping Che/Ta Kwu Ling); and will also commence the study for the Hung Shui Kiu NDA in the North West New Territories in due course. Besides, the Government will continue to conduct various planning studies and to review the land use in different districts for the purpose of identifying land suitable for residential use to meet social needs. For instance, in the Planning and Engineering Review of Potential Housing Sites in Tuen Mun East Area — Feasibility Study which was just completed, and the Planning Study on Future Land Use at Anderson Road Quarry — Feasibility Study which will commence in the latter half of this year, will meet the future population demand.

- (c) As indicated by the Chief Executive at his Question and Answer Session in the Legislative Council on 6 May 2010, the Government's policy regarding the property market is to respond to market demand through the supply of land, of which the Application Lists System is

the principal mechanism. This is supplemented by flexible improvement measures and land auctions from time to time to increase the land supply. Notwithstanding this, the Government is fully aware that the issue of using public money to subsidize home ownership is contentious and any change in the current housing policy would require the consensus of the public. In the light of this, the Government will, in the coming five months, consult stakeholders and members of the public, and listen to their views on this issue.

As a start to this process, the Government consulted the Housing Authority (HA) on revitalization of the Home Ownership Scheme (HOS) Secondary Market at the Subsidised Housing Committee meeting on Monday. On the other hand, whether or not the Government should subsidize home ownership involves a number of considerations. In the next few months, we will widely consult the stakeholders and the public through channels such as consultation sessions, focus groups and the Internet.

The consultation materials for this important subject are being prepared to facilitate a focused discussion. Consultation work is expected to take place between late May and mid-September. The outcome of the consultation exercise will be submitted to the Chief Executive.

**MR LEE WING-TAT** (in Cantonese): *President, two weeks ago, when the Chief Executive was answering a question from me in this Chamber, he pointed out that the economic recession in 2002 and 2003 was the decisive factor for the production of HOS flats. Why did I ask this main question today? That is because the HOS, introduced in 1977 and implemented until 2001, had a history of more than two decades and during this period, the economy was in poor shape only for a short period of time in 1989. In these two decades, was the economy always good? Why did the Chief Executive not say that in these two decades when HOS flats were being produced, the economy was also very good? I think the Chief Executive should not reply with nonsense that reveals a total lack of basic knowledge in economics.*

*President, my supplementary is: Since the LTHS at that time has already stated that home ownership was an important goal; put simply, not only does this goal seek to enable the public achieve home ownership, it also enables people in various social segments to live in a stable environment. This would contribute significantly to social stability, unity and even a sense of belonging. In fact, recently, various sectors in society, including the legislature, have all expressed approval for the proposal construction of HOS flats. A survey conducted by the Democratic Party shows that 80% of the public support the construction of HOS flats, so what fundamental problem is there to make the Government think that it is not advisable to revive the HOS at this stage? Is it due to the opposition of property developers that the Government does not implement this policy that brings great benefit to the public?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): In fact, in view of the great social and economic changes in 2002, the Government considered it necessary to reposition its housing policy. In 2002, the then Secretary for Housing, Planning and Lands made it clear in his statement that property prices in Hong Kong had tumbled by 60% and the volume of transactions had also shown a marked decline. The net asset values in the private residential market had also plunged. The then Chief Executive was greatly concerned about these conditions. In order to revitalize the battered economy, he conducted a root and branch review with a view to restoring public confidence in the property market. For this reason, the policy on the HOS and various kinds of housing assistance programmes was repositioned. At that time, as mentioned earlier, many sectors were consulted, including academics, political parties and the Housing Authority. The objective formulated at that time was very clear, namely, to provide subsidized housing for low-income families who cannot afford private rental housing and the Government should withdraw from its role as a property developer.

Of course, the situation now may be different and the Government also understands that there is a need for society to discuss again the issue of using public money to subsidize home ownership and it is necessary to forge a consensus. For this reason, the Government considers it necessary to consult stakeholders and the public in the next five months to listen to the views of all parties on this issue before setting a long-term direction.



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

**MR LEE WING-TAT** (in Cantonese): *I do not ask about 2002, rather, I am talking about the present. Although 80% of the public support the revival of the HOS, the Government says that no consensus has been reached. Is it because of the opposition of property developers that it claims no consensus has been reached? Can the Secretary answer this question? What does he mean by consensus? As many as 80% of the public have shown their support for this course of action.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we understand that the views of the public on this issue are quite divergent. In fact, we cannot identify a clear-cut view on this issue in society. Of course, various public opinion surveys have been conducted and we can also find different views among the commentaries of the press. Precisely for this reason, we consider it necessary to carry out a consultation.

**MR ALAN LEONG** (in Cantonese): *Of course, there are different views in society concerning whether or not the Government should subsidize the public to attain home ownership but it is necessary for the Government to have a position. President, I wish to further follow up part (a) of the main reply given by the Secretary. It seems what the Secretary meant was that the present housing policy of the Government was based on the statement made in 2002 which spelt out three major directions. President, he said that the three major directions were all very clear. He then said, "Home ownership is driven by market forces. The Government does not compete with the private property market." In that case, may I ask the Secretary, is the Government's current insistence on not reviving the HOS based on the perception or position that the HOS is competing with the private property market? What is the basis for drawing such a conclusion?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Concerning the HOS, it is in fact a Government subsidy in kind provided to members of the public to attain home ownership. Since there are different views

on whether or not the Government should finance the public to attain home ownership, it is necessary for the Government to consult the public on this issue and carry out a detailed study in this regard to see it would have some impacts on private properties. If there are, the supply of private properties will be adversely affected.....

**MR ALAN LEONG** (in Cantonese): *President .....*

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

**MR ALAN LEONG** (in Cantonese): *He has not answered my supplementary at all. My supplementary is: Is the Government's insistence on not reviving the HOS based on the perception that the HOS is competing with the private property market? If this is the Government's conclusion, what is the ground for it?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): HOS flats are a form of assistance-in-kind that are available in the market for sale, just like properties offered for sale in the private market. Hence, HOS flats will also compete for the purchasing power in the market. With various changes in the market, different situations will naturally arise. In 2002, many commentaries or analyses already pointed out that there was an overlap in these two areas. For this reason, we must handle this issue very carefully and prudently.

**MR ALAN LEONG** (in Cantonese): *President, if the Secretary has not made proper preparations for answering this question today, can he be asked to provide a written reply later?*

**PRESIDENT** (in Cantonese): Mr LEONG, I think the Secretary has already given a reply. If you are not satisfied, please follow up through other channels.

**MR ALAN LEONG** (in Cantonese): *All right then.*

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, I heard him say that the public opinion surveys which indicate that 80% of the public want the revival of the HOS flats and other public opinion surveys conducted by other organizations do not count. In that case, why is the public opinion survey conducted by the Government on the issue of universal suffrage regarded as accurate? This is a question in social science. He was probably aware of this question when he was the editor of the Student Newspaper of the Chinese University of Hong Kong .....*

**PRESIDENT** (in Cantonese): Mr LEUNG, please raise your supplementary on the subject of the question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Oh! I am sorry. Sorry, this is just a little bit of education.*

*I wish to ask the Secretary to enlighten me on one point: He said that the views expressed in public opinion surveys were divergent, but I find that one public opinion survey has shown total support for the Government, that is a black box operation carried out by property developers under the name of the so-called Real Estate Developers Association. May I ask the Secretary, including the Secretary sitting next to him, to enlighten me, — if he cannot, just pass a note to communicate — how many private and public meetings they have had with those property developers and the "black society" (that is, the Real Estate Developers Association) this year? If he does not know who they are, let me name them: LEE Ka-shing, LEE Chau-kee, Henry CHENG Kar-shun, Walter KWOK Ping-sheung, Ronnie CHAN Chi-chung. How many times have they met the above-mentioned people? How many times have the two of them, who were officials of the "imperial court", including Secretary Carrie LAM, met those*

*people? I only want a figure on this. This is the first question: how many times have they met, either privately or publicly? This is a matter of accountability.*

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please sit down first. This question is related to the housing policy of the Government but you are asking the Secretary how many times he has met some people privately .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *The Secretary did not meet them privately. How many meetings were formal ones with photo calls and how many were meetings without photo calls held in their capacity as officials of the imperial court or accountability officials?*

**PRESIDENT** (in Cantonese): Mr LEUNG .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *One of the basic requirements of accountability in this Council is .....*

**PRESIDENT** (in Cantonese): Do you think your enquiry is relevant to the theme of the question?

**MR LEUNG KWOK-HUNG** (in Cantonese): *Yes, it is, because the Secretary said that they were impartial and would take into consideration results of public opinion surveys. If a Secretary meets property developers frequently but does not meet other stakeholders, I do not consider this fair. Can he disclose something? I may be wrong.*

**PRESIDENT** (in Cantonese): All right. Mr LEUNG, please sit down. I will ask a Secretary to answer your supplementary. Which Secretary will reply? Secretary for Transport and Housing, please reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): In fact, the Government gets in touch with various sectors of the public through various channels but one point is certain: Take myself as an example, I have certainly got in touch with the public more frequently than with the property sector.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, he did not reply. I am asking about a straight count. This is very simple. His proportion .....*

**PRESIDENT** (in Cantonese): This is already clear, Mr LEUNG .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *..... this is just as in our case. 500 000 votes are 500 000 votes and there is no need to talk about the proportion .....*

**PRESIDENT** (in Cantonese): Mr LEUNG, your question is already very clear .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, I have just come back, so do not stop me from asking questions. My question can be heard by all the people in Hong Kong, including Secretary Carrie LAM, and it is: How many times have they met? Later on, She can release other figures on how many times she has met LEUNG Kwok-hung but I have never had meals with her. I am a Member .....*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *..... I have never had meals with the two of them. On one occasion, I had a meal with Mrs Carrie LAM in London and she was the Director-General at that time .....*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *No, this is a very important question.*

**PRESIDENT** (in Cantonese): Your question is already very clear. Please sit down.

**MR LEUNG KWOK-HUNG** (in Cantonese): *Well, does he know how to answer?*

**PRESIDENT** (in Cantonese): Secretaries, can you provide the figures requested by Mr LEUNG? Which Secretary will reply? Secretary for Transport and Housing, please reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as I replied earlier on, we have various channels and means to communicate with various sectors to understand the views of various sectors and the general public on the housing policy .....

**PRESIDENT** (in Cantonese): Can you provide the figures requested by the Member?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I believe that the records and statistics relating to individual sectors are not readily available.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, what is this if not lying? If they do not meet often, he can surely remember the number of times they meet, it is only when they meet many times that he lost count. Now, let me*

*cross-examine him like a lawyer: Is it more than or less than 20 times, buddy? Tell us.*

**PRESIDENT** (in Cantonese): Mr LEUNG, please sit down. Our .....

**MR LEUNG KWOK-HUNG** (in Cantonese): *Am I not right? He has to respect the audience.*

**PRESIDENT** (in Cantonese): Mr LEUNG, please sit down. The question time is not intended for conducting debates. If Members are not satisfied with the Secretary's reply, they can discuss and debate with the Government on other occasions. This Council has spent more than 22 minutes on this question. There are nine Members who are waiting but are unable to ask any question. Please follow up this matter on other occasions.

### **Registration System of Proprietary Chinese Medicines**

3. **MR FRED LI** (in Cantonese): *President, on 24 March this year, after learning that the Health Sciences Authority in Singapore had found two western drugs namely, "phenolphthalein" and "sibutramine", in samples of "Po Chai Pills Capsule Form", the Department of Health (DH) directed the manufacturer concerned to recall from local retail outlets and consumers this proprietary Chinese medicine (pCm), in respect of which an application for registration is being processed. DH announced the results of the tests on that pCm on 29 March that six capsule form samples and five samples from powder for making capsules were found to contain the aforesaid western drugs. The powder was traced to a company called "廣東施健生物科技有限公司" (Guangdong Shi Jian Biotechnology Company Limited), but the company is not on the list of Guangdong's drug manufacturers. In this connection, will the Government inform this Council:*

- (a) *whether at present it is an offence to sell in Hong Kong pCms which have not been registered or transitionally registered; if so, why the aforesaid unregistered pCm can be sold in Hong Kong; whether the*

*authorities have formulated guidelines on the recall of pCms and the refund mechanism;*

- (b) of the respective numbers of pCm manufacturers holding a pCm manufacturer licence and a transitional certificate at present; whether the authorities have set a timetable for full compliance with the licensing requirements by pCm manufacturers and of the support measures in place to facilitate pCm manufacturers in meeting the licensing requirements; whether the terms of the pCm manufacturer licence provide for the regulation of the procurement of pCm raw materials; and*
- (c) of the current manpower responsible for the registration of pCms, licensing of pCm manufacturers, inspection of pCm manufacturing plants, testing of pCms and provision of support for the recall of pCms respectively?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Chinese Medicine Ordinance (the Ordinance) was enacted in July 1999. The two major sets of regulatory measures, namely licensing of Chinese medicines traders and registration of pCm were implemented in April and December 2003 respectively under the Ordinance.

The regulation of Chinese medicines is undertaken by the Chinese Medicines Board (CMB) under the Chinese Medicine Council, with professional and administrative support provided by the DH. Details of these two sets of regulatory measures are as follows:

*Chinese medicines traders licensing system*

Any persons engaged in retail and wholesale of Chinese herbal medicines, and manufacture and wholesale of pCms are required to apply for a licence with the CMB.

To enable Chinese medicines traders to continue operating their existing business in Chinese medicines, the Ordinance provides for a transitional licensing



arrangement, allowing Chinese medicines traders who were already in business on 3 January, 2000 to apply for a licence through such transitional arrangement.

### *Registration of pCms*

For products that fall within the definition of pCm, application for registration of pCms must be made to the CMB. These products must meet the requirements prescribed by the CMB as regards their safety, quality and efficacy in order to get registration.

Our replies to various parts of the question are as follows:

- (a) Chinese medicine has a long history. In the transition from no formal regulation in the past to implementation of comprehensive legislative regulation, we need time to establish and consolidate our regulatory system, and the trade also needs time for adaptation and preparation in order to comply with the legislative requirements. In view of this, we have adopted a phased approach in implementing the regulatory system. Regulation was imposed on Chinese medicine practitioners first and then on Chinese medicines traders and pCms.

By virtue of the Ordinance, any pCm which is, on 1 March, 1999, manufactured, sold or supplied for sale in Hong Kong is eligible for transitional registration. This is due to the considerations that no regulatory mechanism for pCms was ever put in place before the enactment of the Ordinance, and quite a lot of pCms were already in frequent use and on sale for quite a long period of time. Manufacturers or agents of these pCms may apply to the CMB for transitional registration of their pCm. A "Notice of confirmation of transitional registration of pCm" will be issued for applications which meet the eligibility criteria for transitional registration.

As at the end of April 2010, the CMB received a total of 16 540 applications for pCm registration, of which 14 100 also made concurrent application for transitional registration. The CMB has assessed all these applications for transitional registration and issued a Notice of confirmation of transitional registration of pCm for 9 120

applications and a Notice of confirmation of (non-transitional) registration of pCm for 2 100 applications for non-transitional registration in respect of which acceptable basic test reports had been submitted. In addition, 4 610 applications for registration of pCm were rejected for failing to furnish sufficient information.

In view of the fact that the CMB has completed the assessment of all the applications for non-transitional registration of pCm, the Government has planned to put into full implementation the remaining provisions under the Ordinance related to mandatory registration of pCms by the end of this year. The sale, importation or possession of unregistered pCms in Hong Kong will be an offence by then.

Although the legislative provisions governing the registration of pCms are not yet in operation, licensed pCm manufacturers have to observe the law and the requirements of practising guidelines, which include ensuring that the pCms manufactured and distributed meet the quality requirements. Besides, a proper recall system should also be put in place in accordance with the "Practising Guidelines for Manufacturers of Proprietary Chinese Medicines". We will also make a recommendation to the CMB for a review to be conducted as appropriate on whether a refund mechanism should be established.

Besides, the DH will also conduct market surveillance by collection of Chinese medicine products available on the market and from premises of the Chinese medicine traders for testing on a regular basis. If any quality or safety problem is detected, the DH will conduct investigation and take follow-up actions in accordance with the relevant requirements.

- (b) As at the end of April this year, there are around 450 pCm manufacturers in Hong Kong and about 160 of them have been granted a formal licence. The remaining manufactures in the number of some 290 are holding a transitional certificate. The CMB is now working in full swing to process the vetting of the applications from pCm manufacturers for conversion of their transitional certificates into formal licences and has set out the

approval criteria and handling methods. The CMB will give holders of transitional certificates a period of time of different length as appropriate to make improvements to their factory environment, relocation arrangements, as well as fittings and equipment. The DH will actively work with the CMB on vetting and expediting processing of such applications, with a view to completing the processing of applications from pCm manufacturers for conversion of their transitional certificate into a formal licence in less than two years.

While there is no regulation on the purchase of Chinese medicine raw materials by manufacturers under the current licensing system, manufacturers are required to conduct testing on their pCm as to whether they meet the safety and quality standards in the process of manufacturing their pCm. Manufactures without the relevant testing capability may commission a testing body to conduct the work on quality control. Manufacturers should also purchase their ingredients from reputable suppliers and follow the steps on inspection and acceptance of the ingredients to ensure the safety and quality of their products.

- (c) There are about 90 officers deployed in the DH to undertake the licensing, inspection and enforcement work relating to Chinese medicine traders and registration of pCms. They comprise 25 pharmacists, one Scientific Officer, four Assistant Chinese Medicine Officers, 20 Chinese Medicine Assistants, and some 40 general clerical and administrative support staff. 11 additional posts will be created in 2010-2011 to strengthen the manpower support for the relevant work.

President, I would like to stress that there are substantial differences between Chinese medicines and Western medicines in terms of their principles and applications. We have encountered immense challenges in the process of devising a regulatory system for Chinese medicine. The World Health Organization also recognizes that regulation of Chinese medicines is extremely difficult, as the quality and efficacy of Chinese herbs may be affected by various factors, and researches on Chinese medicines are also inadequate worldwide.

The regulatory system for Chinese medicine is at its early stage of development whether it is in Hong Kong or in other places of the world. In the process of developing a regulatory system, there is not much we can draw reference from. Hong Kong is considered one of the forerunners in the development of a comprehensive regulatory system. We will actively conduct researches in Chinese medicines including the setting of standards for 200 commonly used Chinese herbal medicines. We will also continue to work closely with the trade and tackle any challenges in joint efforts with them to ensure the safety, efficacy and quality of Chinese medicines.

**MR FRED LI** (in Cantonese): *President, in the main reply, the Secretary said that the Government has planned to put into implementation the provisions under the Ordinance related to mandatory registration of pCms by the end of this year.*

*President, the Ordinance has been enacted for ten years, but section 119 of the Ordinance that regulates the sales, manufacturing and import of pCms is not yet in operation. The amendment of the Undesirable Medical Advertisements Ordinance, another ordinance that regulates Chinese medical products, enacted some two years ago is also not yet in operation. Though the legislation has been passed and supported by the Legislative Council, both of them have not been put into implementation.*

*I would like to ask the Government, if it does not enforce the regulations that are already in place, has it considered the risks that the public are facing every day?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Mr LI for his supplementary question.

As I explained just now, Hong Kong is considered a forerunner among different regions in the world in respect of the regulation of pCms. I hope all of you can understand that, after the Ordinance was enacted in 1999, follow-up works have subsequently commenced, including setting up transitional and formal registration schemes for the trade. At that time, we estimated that there

were less than 10 000 types of pCms. Yet it turns out that there are over 16 000 types of pCms, which is 60% higher than our estimation.

Besides, applications for formal registration shall meet several criteria, for example, the heavy metal contents should not exceed the upper limit, is there any pesticide residues, what is the microbial limit, the presence of western pharmaceutical ingredients is not allowed and the Chinese medicine raw materials must be in compliance with the Protection of Endangered Species of Animals and Plants Ordinance, and so on. We have to collect these information from the trade, manufacturers and retailers and this will certainly take some time. Nevertheless, as I mentioned in the main reply, we have completed the assessment of all the applications for transitional registration. Therefore, we will put into full implementation the provisions in this regard by the end of this year. As I indicated in the main reply, the sale, retail or wholesale of pCms not yet registered under the formal or transitional registration schemes will be an offence by then.

**PRESIDENT** (in Cantonese): Has your supplementary question been answered?

**MR FRED LI** (in Cantonese): *In fact, my question is about whether it has assessed the risks faced by the public?*

*President, is the word "forerunner" mentioned by the Secretary refers to the deceased? Would it be better to use the word "pioneer"?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding the use of the Chinese language, perhaps it would be better for us to hear the President's explanation (*Laughter*) because I am not good at this.

As for the assessment of risks which is the focus of the question, even if section 119 is not put into full implementation by the end of this year, I believe the colleagues of the DH will adopt the past practices, such as the regulatory frameworks that are available under the Import and Export Ordinance, Cap. 132 and Cap. 138. Though these regulations were not specially designed for regulating Chinese medicine or pCms, front-line colleagues of the DH will conduct random checks in the market. Insofar as pCm manufacturers or pCms

available for sale in the market are concerned, we will adopt similar measures as in the regulation of food, that is conduct random checks to find out whether toxic elements or pesticide residues that I mentioned just now exist. We will regularly conduct risk assessments. I hope you would understand that we intend to put section 119 under the Ordinance into full implementation by the end of this year with a view to further protecting the health of the public and the interests of consumers.

**PRESIDENT** (in Cantonese): Mr LI, I think "forerunner" does not mean the deceased.*(Laughter)*

**MS AUDREY EU** (in Cantonese): *President, the word "forerunner" was also used in the written reply provided by the Secretary, and I would also like to raise a question on this. He said that there is not much we can draw reference from other regions' experiences as Hong Kong is one of the forerunners. President, what is ironic is that Chinese medicine treatment or Chinese medicine have existed for ages, how come he is still saying that there is not much we can draw reference from and we are still at an early stage of development?*

*Take Taiwan as an example, as far as I know, the Good Manufacturing Practice (GMP) for quality management of pCms was enacted in 1991, under which it is stipulated that all new pharmaceutical plants must conform with the GMP and unregistered pharmaceutical plants shall not develop and manufacture pharmaceutical products. Singapore also has experiences in this regard. They have rolled out an inspection system for pCms in 1999. Can the Secretary explain to us why can we not draw reference from the experiences of Taiwan and Singapore? We have been promoting Chinese medicine treatment or Chinese medicine for such a long period of time, we have related university programs and the legislation has been passed for ten years, how come we are still at an early stage of development? Why are the experiences of other countries or regions not useful to us?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Ms EU for her question, particularly her mention of the works undertaken by the

governments in Taiwan and Singapore. Perhaps I can share with Members our understanding of the differences between their practices and ours in terms of the regulation of Chinese medicine and pCms.

President, as I mentioned in the main reply, upon the passage of the Ordinance in the Legislative Council, we have adopted a phased approach by setting up the registration schemes for registered and listed Chinese medicine practitioners first, then undertaking the works relating to pCms and Chinese medicines traders afterwards.

According to my understanding, Taiwan and Singapore adopt the same practice as ours in that pCms are regulated as if they are pharmaceutical products. Regarding the regulatory system or mechanism, our current registration system requires comprehensive assessment, which is in line with the practice on the Mainland. As for Taiwan and Singapore, they merely adopt a registration system without requiring comprehensive assessment. For example in Taiwan, most of the preparations with set prescriptions or with approval for production and sale are required to register. It is not a registration system requiring overall assessment.

As for Singapore, pCm traders must apply to the Health Sciences Authority for approval of pCm products by producing relevant documents before they can import and manufacture pCms. However, this is also a registration system. Our present registration system is different in that we hope to implement a serious and stringent registration system with comprehensive assessment.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, regarding quality accreditation of pCms, in part (b) the Secretary said: "While there is no regulation on the purchase of Chinese medicine raw materials by manufacturers under the current licensing system, manufacturers are required to conduct testing on their pCm as to whether they meet the safety and quality standards in the process of manufacturing their pCm. Manufacturers without the relevant testing capability may commission a testing body to conduct the work on quality control."*

*I would like to ask the Secretary, as far as I know, we do not have many testing bodies in Hong Kong for the time being. Though the Government has provided a list of testing bodies on the Mainland, some manufacturers told me that those testing bodies on the Mainland, that is, the names provided by the Government, do not even exist; even if there are such bodies, the testing standards and qualities vary greatly, and some even have rats around. My question for the Secretary is, insofar as the list is concerned, has the Government ever sent somebody to conduct comprehensive inspections of these testing bodies so as to understand their quality? If their qualities vary greatly, their testing results may be affected, which in turn affect the quality and safety of pCms.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Mr LEUNG for his question. To tie in with the registration of pCms, safety testing is required for Chinese medicine, an issue that Mr LEUNG has just now showed concern. Through the Hong Kong Laboratory Accreditation Scheme managed by the Hong Kong Accreditation Service under the Innovation and Technology Commission, accreditation service are provided to local laboratories for testing of toxic elements, pesticide residues and microbiological content in pCm, that is the three assessment criteria that I mentioned just now. Accreditation has so far been granted to 11 laboratories for testing of pCm.

As Members may remember, we have established the Hong Kong Council for Testing and Certification in September last year. A report on the development plan of the industry was submitted to the Chief Executive in late March this year.

Just now Mr LEUNG queried whether we have partners with more advanced and stringent standards? Apart from the 11 accredited local laboratories for pCm testing, we have, through the Innovation and Technology Fund (ITF), provided funding support for projects related to Chinese medicine applied research and developing modern technology platforms which have helped local universities to set up facilities such as: first, the Process Development and Manufacturing Facility for Chinese Medicine in the Hong Kong Institute of Biotechnology; second, the Traditional Chinese Medicine Center of the Biotechnology Research Institute at The Hong Kong University of Science and Technology; and third, the Quality Research Laboratory of the Hong Kong Baptist University for analysing and assessing the composition of Chinese medicine under the support of the Innovation and Technology Fund which



subsidizes studies related to the application of Chinese medicine and projects on the development of modernized technological platform.

Lastly, President, the SAR Government and the Hong Kong Jockey Club set up the Hong Kong Jockey Club Institute of Chinese Medicine in 2001 to promote, co-ordinate and strengthen the areas that Mr LEUNG concerned about just now, including the sourcing and authentication of Chinese medicine raw materials. The works relating to Chinese Pharmacopoeia and Hong Kong Chinese Materia Medica Standards are progressing well. Hence, these laboratories can provide testing services if the factories of the trade do not have the relevant testing capability.

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

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Secretary has not answered my question, I am not referring to local laboratories, I refer to the Mainland laboratories provided in the list. How are the quality and testing standards of the Mainland laboratories accredited? Have any government officials ever inspected those premises in person to check if they can conform with the standards for general laboratory?*

**PRESIDENT** (in Cantonese): Mr LEUNG asks how are the standards of the Mainland laboratories set out in the Government's list accredited. Secretary, do you have anything to add?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, for both Mainland and local testing bodies, we adopt the same criteria to assess whether they conform with the conditions for granting accreditation. Therefore, laboratories within or outside Hong Kong will not use different criteria for testing the standards of Chinese medicine, pCms or Chinese medicine raw materials.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, he has not yet replied as to whether any government officials have inspected ..... are there any detailed .....*

**PRESIDENT** (in Cantonese): Secretary, have any Hong Kong officials visited the testing bodies outside Hong Kong?

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I do not have the relevant information in hand. What I can say is, according to my understanding, for testing and accreditation, be they related to Chinese medicine, food, toys or gems, there is an international platform for the Hong Kong Accreditation Service and there is a mutual recognition mechanism, not just between Hong Kong and the Mainland or a certain place. If there is an international platform for reciprocal recognition, I believe it can provide a kind of standard assurance.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, may I ask the Secretary to give us some information later on as to whether their officials have made such inspections; if they have, can he give us the number of inspections made and the laboratories visited?*

**PRESIDENT** (in Cantonese): President, if you have any supplementary information, please provide it after the meeting. (Appendix I) This Council has spent more than 22 minutes and 30 seconds on this question. Several Members are unable to ask their questions. Fourth question.

### **Hong Kong-Zhuhai-Macao Bridge**

4. **MR LAU KONG-WAH** (in Cantonese): *The Hong Kong-Zhuhai-Macao Bridge (HZMB) Hong Kong Boundary Crossing Facilities (HKBCF) will be located at the waters off the north-east of the Airport Island on Lantau, and reclamation works will commence in the third quarter of this year. It was*

*proposed as early as in 2006 that motels, large exhibition venues, large entertainment and shopping facilities, and so on, should be developed around HKBCF area to foster a bridgehead economy, increase the traffic flow of the bridge and give an impetus to the economic development of Lantau. The authorities indicated that they would consider the proposal. In this connection, will the Government inform this Council:*

- (a) whether it has specific plans to develop in the areas surrounding HKBCF transportation connections and the aforesaid facilities that cater for the needs of vehicles and visitors from the Mainland, so as to foster a bridgehead economy;*
- (b) given that I have learnt that at present, certain sites on the Airport Island are still available for new uses and that the construction works of HKBCF are still at the preparatory stage, whether the Government will consider collaborating with the Hong Kong Airport Authority (AA) in devising a detailed plan on how to use the sites concerned to develop a bridgehead economy; if it will, of the details; if not, the reasons for that; and*
- (c) of the latest progress of the trial scheme on one-off ad hoc quotas for cross-boundary private cars planned to be implemented by the Governments of Hong Kong, the Mainland and Macao, the overall planning and method for allocating quotas; whether the scheme will be implemented in phases according to types of vehicles and vehicle ownership by Government, enterprise and individual?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):

President, my reply to Mr LAU's question will be divided into three parts.

- (a) When we considered the landing points and the location of the HZMB HKBCF, economic benefits were one of the important considerations. The HKBCF, to be built by reclamation, will be located at the northeast of the Hong Kong International Airport (HKIA). The HKBCF occupies a favourable geographical location and is in the vicinity of the HKIA. It will accommodate road sections for traffic to and from the North West New Territories and

North Lantau. Therefore, apart from providing immigration, customs and public transport interchanging facilities, the HKBCF will become a strategic multi-modal transportation hub on the west of Hong Kong. Its traffic and economic benefits will radiate to nearby areas and will significantly boost the economic development capability of these areas.

Nevertheless, since the HKBCF involves reclamation works, having regard to environmental protection and financial considerations, we should minimize the size of the reclamation (currently estimated to be about 130 hectares), and the main purpose of the land reclaimed should be to accommodate the boundary crossing and traffic and transportation facilities of the HZMB. Furthermore, as the HKBCF is located in the vicinity of the HKIA, its buildings need to comply with the Airport Height Restrictions (between 25 to 50 metres Principle Datum), and structures which are too bulky should be avoided as they might bring visual impact. Based on the above considerations, we do not recommend large-scale commercial developments on the HKBCF. However, we agree that where feasible, we should make good use of the space available to develop facilities related to commercial activities so as to promote the economic activities on the HKBCF and at the same time bring convenience to the travellers. On this, we will explore at the detailed design stage of the HKBCF whether it can accommodate commercial activities of appropriate scale to serve travellers and meet their needs.

To give full play to the benefit of the HZMB and HKBCF in facilitating the bridgehead economy in the nearby areas, we need to provide convenient transport services between the HKBCF and the HKIA, Tung Chung, other parts of the Lantau Island and Tuen Mun. These services will encourage travellers coming to Hong Kong through the HZMB to make use of the commercial facilities in these locations (for example, the Asia World-Expo, hotels in the vicinity, shopping malls in Tung Chung and tourist attractions on the Lantau Island) which will provide business opportunities to these areas. Therefore, when we plan the arrangements for the related connecting transport services, we will take this into account so that the HZMB

can effectively promote the economic development of the nearby areas.

As regards the development of the areas in the vicinity of the HKBCF, the Civil Engineering and Development Department and the Planning Department will, upon finalization of the detailed planning for the Hong Kong Link Road and HKBCF as well as the completion of the Hong Kong International Airport Master Plan 2030 Study, and subject to the detailed planning and study findings, determine if the planning and engineering feasibility study for the remaining development of Tung Chung could commence as soon as possible. The Administration will take into account peripheral developments during the planning and engineering feasibility study, including the HZMB and the development of the HKIA, in formulating development proposals. The Administration will assess the impacts of the development proposals with regard to various aspects, including the environment and traffic. Public consultation will also be conducted.

- (b) The Government has granted land at the HKIA to the AA under the relevant land grant. In accordance with the Airport Authority Ordinance, the AA has to operate and develop the HKIA in accordance with the objective of maintaining Hong Kong's status as a centre of international and regional aviation, and conduct its business according to prudent commercial principles and having regard to safety, security, economy and operational efficiency.

There will be about seven hectares of land at the Northern Commercial District on the Airport Island available for development. The AA is planning to appoint a consultancy firm in the second half of this year to examine how to develop the land in question. In formulating a strategy for developing the land, the consultancy firm has to consider such factors as meeting the airport operational requirements, the planning of land near the HKIA, and making use of the economic synergies arising from enhanced connectivity between the HKIA and the Pearl River Delta region as a result of large-scale cross-boundary infrastructures (particularly the HZMB). The consultancy study is expected to take six to nine months. We

believe this development strategy will help develop a bridgehead economy.

- (c) With the commissioning of new land boundary control points, the Guangdong and Hong Kong Governments consider that there is room to relax the control on cross-boundary private cars on an incremental basis so as to satisfy wider cross-boundary transportation needs and accelerate the pace of integration between Hong Kong and the Mainland. Building on the existing regular quota system for cross-boundary private cars, the two sides are discussing relaxation of the regulatory arrangements for cross-boundary private cars by introducing ad hoc quotas for private car owners who are not eligible for regular quotas, thereby enabling more people to travel across the boundary using their private cars. This proposal has now been incorporated into the Framework Agreement on Hong Kong/Guangdong Co-operation.

The relevant authorities of the Hong Kong and Guangdong Governments have reached preliminary agreement to implement an ad hoc quota trial scheme (the trial scheme) for cross-boundary private cars at the Shenzhen Bay Port. The trial scheme will be implemented in two phases, starting with the issue of ad hoc quotas to Hong Kong private cars first, to be followed by Guangdong private cars at a later stage upon satisfactory implementation of the scheme for Hong Kong private cars. The implementation details, including the number of quotas to be introduced, issuing criteria, application procedures and necessary clearance formalities, and so on, are being sorted out. The exact implementation date of the trial scheme is subject to the progress of discussion with the Guangdong side on the implementation details.

Other cross-boundary vehicles, including goods vehicles, coaches and hire cars, are of commercial nature. They have business needs to cross the boundary on a regular basis. The temporary nature of ad hoc quotas would not be able to cater for the business and commuting needs of these vehicles. Therefore, it would not be appropriate to include them into the trial scheme.

Separately, the relevant authorities of the Guangdong, Hong Kong and Macao Governments have already started to explore the regulatory arrangements for vehicles using the HZMB. Since the issue involves three jurisdictions with different laws, traffic regulatory regimes, modes of operation and road systems, the three governments would need to examine carefully the relevant regulatory matters in order to knock out a feasible arrangement which will facilitate vehicular flows among the three places. The trial scheme, if implemented successfully at the Shenzhen Bay Port, will have exemplary effect for extending the scheme to the HZMB in future.

**MR LAU KONG-WAH** (in Cantonese): *President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) submitted a proposal on the concept of bridgehead economy of the HZMB in 2006. Five years later, we notice that the Government has decided to construct the HZMB and made certain planning for the development of the Airport Island and Tung Chung. But apart from these projects, there are, in fact, two new developments, including Qianhai area in Shenzhen and Hengqin area in Zhuhai. Hong Kong is precisely located at the centre between these two areas. Has the Secretary conducted any comprehensive study and development on the existing location of the bridgehead economy with the authorities of these two development areas in Shenzhen and Zhuhai; if not, should the consultant and other departments re-consider doing so?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): In fact, we have been keeping an eye on the overall town planning in Zhuhai and Shenzhen, as well as their ideas and details of development in the two areas mentioned by Mr LAU just now. In this regard, we have to gather more detailed information, so as to facilitate our planning for large-scale infrastructures across the boundary. We always have such communications.

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

**MR LAU KONG-WAH** (in Cantonese): *He has not answered if there is a comprehensive consideration. I know he is working on it now.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, in conducting large-scale cross-boundary projects, we will certainly consider the effect brought about by the connecting places. We will therefore make reference to the development projects of our counterpart, particularly those of the neighbouring places, so as to complement our large-scale transport infrastructures across the boundary.

**MISS TANYA CHAN** (in Cantonese): *Although the main question is about the bridgehead economy, it seems that the main reply, in particular part (b), is about the economy of the HKIA, on matters relating to the HKIA. Of course, the HKIA is very famous, and a lot of area on this vast piece of land has not yet been fully utilized. We do hope to grasp its geographical edge and link up the network of transport infrastructures. However, I notice that researches on fostering a bridgehead economy have very often been accorded a lower priority. For example, as stated in the second paragraph of part (a) of the main reply, we should examine the economic benefits brought about by the above project first before exploring at the detailed design stage whether it can accommodate commercial activities of appropriate scale.*

*I wish to ask the Bureau, in this regard, I do not think that commercial development will be seriously affected by the Airport Height Restrictions of 25 to 50 metres. I wish to ask the Secretary or the Government, what are their opinions and what direction will they take to foster a genuine bridgehead economy there?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the concept of bridgehead economy can be very grand indeed. Our idea is, the bridgehead economy should include not only the landing points of the HKBCF, but also the nearby areas, such as Tung Chung, the Airport Island and Tuen Mun.



As we will develop the HKBCF into a comprehensive transportation hub, public transport facilities and routes to be constructed will foster the development of areas in the vicinity. Therefore, the areas so covered will not be restricted to the Airport Island only.

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

**MISS TANYA CHAN** (in Cantonese): *Yes, the Secretary is still talking about the HKIA in his reply .....*

**PRESIDENT** (in Cantonese): Please state your question precisely.

**MISS TANYA CHAN** (in Cantonese): *Okay. I wish to know, regarding the bridgehead economy mentioned by the Secretary, apart from the economy of the HKIA, what is the mode and scale of developing a genuine bridgehead economy? Moreover, as he has mentioned that such concept can be very grand, we wish to know what exactly its scale is.*

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

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): As mentioned in my reply just now, we only think that it should be of quite a large scale, covering not merely the landing points of the HKBCF. The Member has asked about the scale of the HKBCF. Having regard to reclamation constraints, financial considerations and impacts on the HKIA, we think that the island itself should not be too big as far as the reclamation at the HKBCF is concerned. We will restrict its scale as well.

However, we also understand that this place should be convenient to travellers, and will thus accommodate commercial activities of appropriate scale. When conducting the detailed design later, we will meet the needs in this regard.

**MR CHEUNG HOK-MING** (in Cantonese): *President, as stated in the third paragraph of part (a) of the Secretary's main reply, "To give full play to the benefit of the HZMB and HKBCF in facilitating the bridgehead economy in the nearby areas, we need to provide convenient transport services between the HKBCF and the HKIA, Tung Chung, other parts of the Lantau Island and Tuen Mun". President, I wish to ask the Secretary, regarding "convenient transport services", does he refer to the Western Bypass and the link road between Tuen Mun and the HKIA? If so, when will this project be commenced and completed? And what is the time gap between its date of completion and that of the HZMB?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, with regard to connecting Tuen Mun with regions further away, the link road between North Lantau and Tuen Mun is one of our major links.

Moreover, the Express Line between the HKIA and the Shenzhen Airport is under planning. Of course, we will endeavour to complete the construction of a link road with Tuen Mun upon commissioning of the HKBCF. For the time being, we can hardly draw up a timetable. Anyway, we will try our best to tie in with regard to the works and its effect.

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

**MR CHEUNG HOK-MING** (in Cantonese): *President, you may say that the Secretary has answered my question. But you may also say that he has not, for he said that no timetable was available. What I have asked him just now is*

*when the works will be commenced and completed, and what the time gap between its date of completion and that of the HZMB is. He has not answered me at all.*

**PRESIDENT** (in Cantonese): I think the Secretary has already answered your question.

**MR TAM YIU-CHUNG** (in Cantonese): *President, the DAB visited Hengqin Island in Zhuhai last Sunday. We noted that Zhuhai had a very grand plan for fostering the bridgehead economy, and such plan is already underway. The project, including a number of large-scale convention and exhibition centres, hotels, leisure areas and shopping malls, is expected to be completed in about three years' time. Noting that it would take only half an hour to travel from Hong Kong to Zhuhai upon commissioning of the HZMB, they have made comprehensive planning and preparation in this regard.*

*On the contrary, the project in Hong Kong is still at the preliminary stage. I wish to ask the Secretary, if we continue to proceed at such a speed, I am afraid that our bridgehead economy cannot give full play to its effectiveness upon the commissioning of the HZMB. With such a slow progress, has the Government received any proposal from consortia, so as to assist the Government to put forth the development concerned?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): We do note that Macao and Zhuhai have such plans and development to foster their bridgehead economy. We can discuss with the Governments of the Mainland and Macao the feasibility of facilitating such economic activities without violating the legislation on customs and immigration.

As regards whether there is any submission from consortia for the time being, we have not received any proposal, but we do welcome their proposals in this regard.

**MRS REGINA IP** (in Cantonese): *President, I am very delighted to hear from the Secretary that in future, commercial facilities would be provided in this bridgehead to complement the nearby Asia World-Expo. It is because at a public hearing held by the Legislative Council Panel on Economic Development recently, many exhibitors who have participated in activities organized by the Hong Kong Trade Development Council (HKTDC) said that ancillary facilities in Tung Chung were not satisfactory, with no entertainment area, karaoke or bars. Travellers feel that there is no entertainment facility at all. Therefore, provision of ancillary facilities is very important.*

*I wish to ask the Secretary, will the HKTDC and those exhibitors who do not like visiting Tung Chung be consulted in planning the provision of these ancillary facilities? Can the operation of such facilities tie in with the commissioning of the HZMB, so as to enable the Asia World-Expo to fully grasp this opportunity and attract more exhibitors to Hong Kong?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Regarding the development of commercial lands at the HKIA, a consultancy study will be commenced in the second half of this year. Certainly, both potential and existing users will be consulted, so as to let them know how the development in future can better complement the commissioning of new cross-boundary infrastructures and meet the development needs of the HKIA itself. As such, they can make preparation accordingly.

**MR WONG KWOK-HING** (in Cantonese): *President, I wish to ask the Secretary, the Government said ten odd years ago that the vast piece of land, located west of the existing Airport Island, east of Shek Mun Kap and north of Yat Tung Estate, would be developed into a place with a population of 100 000 to 200 000, and a rail station would also be set up there. However, no planning has been made so far. Given that presently we have the so-called bridgehead economy, and since no reclamation is required now, the safety of air routes will not be effected and the height of buildings will not be restricted, the Government should be able to go ahead with its planning without any hindrance. But why has this place been left vacant for ten odd years? In fostering the bridgehead economy, why the Government has not considered such a vast piece of land at all? I wish to ask the Government via the President, regarding the so-called*

*bridgehead economy, has the Government forgotten the development of the vast piece of land I have just mentioned, which is located north of Yat Tung Estate, east of Shek Mun Kap and west of the existing Airport Island?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): In fact, we know very well about the development of the area mentioned by Mr WONG. Regarding further development in Tung Chung, there are two crucial factors which merit our consideration. The first one is about boundary crossing facilities and link roads of the HZMB, which will serve as an important timeframe and reference for us. The second one is about the 2030 study on the HKIA. Researches on these two areas will be completed within this year. Upon completion of these researches, the planning departments will decide how to proceed with the planning for Tung Chung in view of its need, so as to complement the HKIA and the landing points of the HZMB. We should take these factors into consideration.

However, as these two large-scale projects have yet reached a mature stage, we can hardly put forth more ideas in this regard. As for the HKIA and the HZMB, we will make an important decision by the end of this year. And colleagues from the planning departments will certainly decide the planning for the west of Tung Chung according to the development needs of the district itself.

**MR WONG KWOK-HING** (in Cantonese): *President, the Secretary has not answered .....*

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

**MR WONG KWOK-HING** (in Cantonese): *..... the point whether this piece of land is included in the bridgehead economy.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, we believe that in developing the so-called bridgehead economy, the

landing points of the HZMB can foster people flow in the nearby areas, including Tung Chung, the HKIA and even Tuen Mun and North Lantau. Therefore, extensive areas will be covered.

**PRESIDENT** (in Cantonese): This Council has spent nearly 24 minutes on this question. The fifth question.

### **Government's Policies on Land Development**

5. **MS EMILY LAU** (in Cantonese): *President, the Land (Compulsory Sale for Redevelopment) (Specification of Lower Percentage) Notice came into operation on 1 April this year amid controversies. The Secretary for Development has remarked that "owing to the public image of the real estate sector in Hong Kong, both the Government and I might be doing something like sailing a boat against the currents". On the other hand, local and overseas media have reported over the years that the richest tycoons in the territory are all real estate developers; some members of the public consider that the policies of the Government are tilted in favour of real estate developers, and there might be collusion between Government and the business sector as well as transfer of benefits. In this connection, will the executive authorities inform this Council of the following in the past five years:*

- (a) *whether they had studied and analysed the reasons why public policies had given people the impression that they were in the favour of real estate developers, and whether real estate developers had hoarded land and residential flats, controlled the completions and supply of residential flats, forged non-bona fide transactions, disseminated confusing information on the sale of properties and provided sales brochures without detailed information; if they had conducted such a study and analysis, of the details; if not, the reasons for that;*
- (b) *whether they had studied and analysed the reasons for the insufficient supply of land and medium and small-sized residential flats, soaring property prices and the absence of legislation to regulate the sale of new private residential properties, and whether*

*such situations would give rise to the public perception that the authorities' policies were tilted in favour of real estate developers; if they had conducted such study and analysis, of the details; if not, the reasons for that; in addition to the measures already announced, what other measures the Government will adopt to protect the rights and interests of property buyers and allay the impression of collusion between Government and the business sector; and*

- (c) *whether they had analysed, among the 28 functional constituencies of the Legislative Council, the number of functional constituencies, other than the real estate and construction functional constituency, the voters of which had direct or indirect interests associated with real estate developers, and whether this situation had confirmed the comment that public policies were tilted in favour of real estate developers?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):

President, before answering the three questions from the Ms Emily LAU, I would like to respond to the concerns set out in the preamble of the question on the so-called "collusion between the Government and the business sector", "transfer of benefits", and the suggestion that "policies of the Government are tilted in favour of property developers".

The Government is committed to maintaining a fair and open business environment where there is free competition among market participants. From policy formulation to implementation, the Government does not side with any individual market participant or consortium. Indeed, the Government will not tolerate any behaviour that could undermine fair competition via bribery or other improper acts that could affect the healthy development of the market.

With a view to combating possible anti-competitive conduct which may occur in any sector, the Government plans to submit to the Legislative Council within this legislative session a cross-sector competition bill that will underline its commitment to ensure a fair and competitive business platform and provide consumers with more variety and better choice. On anti-corruption, the Independent Commission Against Corruption is recognized worldwide for its dedication to combating all types of corruption, bribe-offering or bribe-taking

conduct. In addition, the Ombudsman and the Audit Commission are vested with statutory powers to monitor the administrative performance of the Government. The Legislative Council and the media are also strong and powerful agents that actively monitor the operation of the Government and private organizations alike. Beyond this, and critical to the protection of the public interest is the freedom of speech, freedom of the press and freedom of association as enshrined in the Basic Law and which the Government cherishes.

The Government strives to enhance transparency when formulating and implementing policies. As part of the process of policy formulation, relevant Government bureaux and departments will actively consult the public, including collecting views from diverse sectors of the community through various channels and the Legislative Council, with a view to ensuring that the policies and measures that emerge will strike an appropriate balance among the needs and interests of all relevant sectors as far as possible. In addition, they will actively brief the public on new policies and measures upon implementation. Given that the Government is highly transparent and with the related monitoring mechanisms, it is simply not credible that any government department or bureau would disregard rules and procedures to favour the interests of a particular side. I must stress that there is no question of "collusion between the Government and individual property developers or consortia" nor for the "transfer of benefits" to take place.

Let me turn now to Ms Emily LAU's three questions. These cut across other policy areas. With input from the Development Bureau and the Constitutional and Mainland Affairs Bureau on those parts under their respective purview, my reply to the three questions is as follows:

- (a) On whether property developers have hoarded land and residential flats so as to control the completion and supply of residential flats: currently, the Government imposes a building covenant in the lease conditions on land disposed of through public auction, tender or private treaty grant. Developers are required to complete construction within the period specified in the building covenant in accordance with the conditions of the land leases, which may range from four to six years or more. For developers which fail to complete construction within the specified period without valid reasons, the Lands Department may impose sanctions in accordance



with the relevant conditions in the land leases. This is an effective mechanism to prevent property developers from hoarding land deliberately and delaying the completion of their developments.

Enhancing the transparency of the supply of first-hand residential flats will help members of the public ascertain the future supply of private residential flats by making reference to published flat supply data. To this end, the Transport and Housing Bureau releases on a quarterly basis on its website data on the number of flats which have commenced construction and those on which construction has been completed in that quarter, and the estimated supply of private residential flats in the following three to four years.

The Government firmly believes that transactions involving private residential properties should be fair and transparent, and will not tolerate any forged non-bona fide transactions, dissemination of confusing information on the sale of properties and disclosure of incomplete property information. We are mindful that for most people, buying a flat is likely to be the biggest expenditure in their lives and any fraud or deception in property sale is totally unacceptable. I can assure Members that the Government is determined to ensure that buyers have the necessary information before making purchase decisions.

Actually, the Government is firmly committed to ensuring the transparency of the sales and transactions of private residential properties. In the past two years, the Transport and Housing Bureau has implemented a number of measures to strengthen regulation of the sale of uncompleted first-hand residential properties, through the Lands Department's Consent Scheme (Consent Scheme) and the guidelines of The Real Estate Developers Association of Hong Kong (REDA). These include requiring developers to provide in their websites and sales offices information on the Agreements for Sale and Purchase (ASPs) within five working days after the signing of the respective Preliminary ASPs, and so on.

To further enhance the transparency of information and the fairness of transactions, the Transport and Housing Bureau is working with REDA to implement the nine further enhancement measures. These include strengthening the regulation on show flats and enhancing the transparency of sales brochures and price lists. We will implement the new measures through REDA's guidelines and the Consent Scheme. Those REDA's guidelines will come into effect on the 1st of next month, whereas the Lands Department has included the nine new measures into the approval letters for Consent Scheme projects approved on or after the 14th of this month. We will closely monitor the effectiveness of the new measures. Should these prove to be ineffective, we do not rule out the possibility of introducing legislative measures.

- (b) The recent increase in property prices is attributable to the "quantitative easing" policy adopted by many economies since the onset of the financial tsunami which has increased global liquidity and has resulted in a huge inflow of "hot money" into our financial system. Interest rates in the United States have also been kept at an historic low level and this has had a knock on effect on interest rates here. In addition to these factors, the relatively low supply of residential flats in the past two years, and the recovery of the economy faster than expected, has led to worries about under-supply among some members of the public.

The rise in property prices since last year is therefore largely due to an environment with an extremely low interest rate, abundant liquidity and a relatively low supply of flats happening together. I have to say that this is an exceptional situation resulting from the financial tsunami.

It is the policy objective of the Government to ensure the healthy and stable development of the property market. Clear and consistent public policies are key to achieve this. To manage the risk of a property bubble caused by short-term boosting factors, the Financial Secretary announced in the Budget this year measures on four areas to ensure healthy and stable development of the property market while preventing public policies from causing unnecessary

fluctuations in that market. The four areas include increasing supply to tackle the problem at source, introducing tax measures to combat speculative activities, enhancing the transparency of property transactions, and preventing excessive expansion in mortgage lending.

Apart from increasing the overall residential flat supply, the Government is also actively increasing the supply of small and medium sized residential flats. The Government will liaise with the MTR Corporation Limited and the Urban Renewal Authority to increase the supply of small and medium sized residential flats in the West Rail property development projects and urban renewal projects respectively. The Government is also prepared to sell by open tender a site near the West Rail Long Ping Station in Yuen Long for private residential purpose, and will increase the supply of small and medium sized flats by specifying in the land sale conditions requirements in terms of the minimum number of flats and the range of the size of those units. In addition, the Hong Kong Housing Society is selling all of the surplus Sandwich Class Housing Scheme flats, and the Hong Kong Housing Authority will put up for sale the remaining surplus Home Ownership Scheme flats in June this year the earliest.

The Government will continue to keep a close watch on the property market, including speculative activities, and will consider re-launching appropriate measures to ensure the healthy and stable development of the market if necessary.

- (c) Regarding part 3 of the question, Article 64 of the Basic Law provides that the HKSAR Government must abide by the law and be accountable to the Legislative Council of the HKSAR: it shall implement laws passed by the Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by Members of the Council; and it shall obtain approval from the Council for taxation and public expenditure. According to the above Basic Law provisions, whilst the executive authorities and the legislature have their respective functions and

powers, they should both complement, as well as keep a check and balance on, each other's functions.

In formulating and implementing public policies, the HKSAR Government must take full account of public opinions, instead of the interests of individual sectors, to ensure that the policies are reasonable and consistent with policy objectives. On this basis, the executive authorities have placed importance on the Council as an important channel for reflecting opinion of the community, and have been supporting the work of the legislature. The bills and budgets proposed by the HKSAR Government for implementing public policies must be examined and approved by the Council before they are implemented.

**MS EMILY LAU** (in Cantonese): *President, my question is simply about the fact that there is such an impression in society. Over these few decades, the richest people are surely all real estate developers, and Secretary Carrie LAM also remarked that owing to this public image, the Government might be doing something like sailing a boat against the currents. That is why I asked whether the authorities have made any analysis to find out the reasons behind instead of asking what they have done. Something has been done, and we understand very well that sometimes there are things that have to be done. However, what I find most ridiculous is ..... since the Secretary has taken up this position, he has the responsibility to answer questions, although it is already hard work for him to have answered so many questions here today.*

*I asked whether the authorities understand why members of the public have this impression. Why has it turned out this way? What should be done to allay this impression? Besides, how many functional constituencies (FCs), other than the real estate and construction FC, have such an intricate relationship with real estate developers, giving the public the idea that public policies are tilted in favour of them?*

*President, the Government announced yesterday that legislation would be enacted to regulate unscrupulous sales practices, but the exclusion of the sale of residential properties from regulation has infuriated members of the public. President, this Council passed a motion on 28 April, urging the Government to*

*enact legislation to regulate the sale of residential properties. All Members present supported the motion, with the exception of only one Member who voted against it. In the past, the Government was unwilling to exercise regulation, giving the reason that we could not reach a consensus. Now that a consensus has been reached, the Government is still unwilling to exercise regulation; and now there is also this undesirable impression, which has caused the Government to be doing something like sailing a boat against the currents. Do the authorities understand where the problem lies? It is not only their problem. All the people in Hong Kong are suffering because of them, and hundreds of thousands of people keep saying that they are only working for real estate developers .....*

**PRESIDENT** (in Cantonese): Ms Emily LAU, please ask your supplementary question.

**MS EMILY LAU** (in Cantonese): *I have already done so. I asked whether he would conduct any analysis, whether he understands where the problem lies and what would be done.*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Members of the public may have their own views on the governance of the Government, and so may Members. The Government is committed to maintaining a fair and clean business environment to ensure public interest. This is something we have to put effort in.

**MS EMILY LAU** (in Cantonese): *President, I asked him what would be done. The Government announced yesterday that legislative amendments would be introduced to regulate unscrupulous sales practices, but why is the sale of residential properties excluded? The regulation of the sale of residential properties would be conducive to allaying the impression of collusion between Government and the business sector.*

**PRESIDENT** (in Cantonese): Ms LAU, it seems that you are asking another question.

**MS EMILY LAU** (in Cantonese): *President, actually I have already asked this question just now. I will leave it to your decision.*

**PRESIDENT** (in Cantonese): Let me see whether the Secretary has anything to add.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): We think that the regulation of the sale of residential properties can be carried out more effectively and efficiently through our present proposal, that is, through the Consent Scheme and the REDA's guidelines, which can be put into effect soon. Certainly, if these measures prove to be ineffective, we do not rule out the possibility of introducing legislative measures.

**MR ALAN LEONG** (in Cantonese): *President, the measures are ineffective. This is an indisputable fact. It is also worth mentioning here a press report today about a certain real estate developer who purchased a site on the Peak at an astronomical price of \$1.8 billion and claimed to build a castle for his family there. At the same time, Ms Emily LAU has raised this equally baffling question of why the sale of residential properties alone is not covered under the amended Trade Descriptions Ordinance, which seeks to suppress all unscrupulous sales practices.*

*President, may I ask, since vendor who is found tampering with his scales will be brought before the court in accordance with the law, why the Government only requires real estate developers to exercise self-regulation in cases relating to the selling of flats? If a real estate developer defrauds up to 100 sq ft in selling a flat, up to \$1 million may be involved with the property price being tens of thousand dollars per sq ft. Has the Government turned a blind eye and a deaf ear to all the previous ineffective attempts to request real estate developers to exercise self-regulation? Will the Secretary give a direct answer as to how long*

*the Government will wait and what situations have to emerge before it is willing to enact legislation?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I have already given a clear answer in the main rely that we are committed to maintaining a fair and transparent market, in particular, a property market. At present, we think the desired result will be achieved more quickly by adopting the Consent Scheme and the REDA's guidelines. Certainly, as I said just now, we do not rule out the possibility of introducing legislative measures if property developers do not comply with the Scheme and the guidelines in the future or the measures are unable to achieve significant results.

**MR ALAN LEONG** (in Cantonese): *President, the Secretary has not answered my question. Since I joined this Council in 2004, I have heard similar answers countless times .....*

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

**MR ALAN LEONG** (in Cantonese): *I asked what situations have to emerge before the Government would consider enacting legislation. Will he provide some objective criteria for ineffective self-regulation?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I think this question cannot be answered by simply providing a couple of criteria. We must assess the self-regulation exercised by the industry in general to find out whether it is acceptable to society and whether or not market operation is fair and transparent.

**MISS TANYA CHAN** (in Cantonese): *President, we have also taken notice of the motion debate conducted in this Council at the end of last month. The Sales Descriptions of Uncompleted Residential Properties Bill was tabled in this Council as a White Bill in 2000, but the Government chickened out and withdrew*

*the bill on its own initiative one year afterwards. The White Bill, which had been studied for over 10 years before it was tabled in this Council, was withdrawn only one year afterwards. Now, the Secretary has said that "nine proposals and 12 requirements" will be implemented. What can be achieved by these "nine proposals and 12 requirements"? The authorities claim that these proposals and requirements are very stringent and effective, and can even subject property developers to penalties. And what are the penalties? The penalty imposed is that real estate developers will not be allowed to sell uncompleted residential properties, and this will in turn cut their cash flow. Thus, it be said that real estate developers will become frightened. Just think about it, when the authorities cut their cash flow by disallowing their sale of uncompleted residential properties, the supply in the market will drop, and property price will go up. Who will bear the consequence in the end? Will the consequence not be borne again by flat buyers and the public? How can the authorities claim that these proposals and requirements are vigorous and effective? Up to this moment, I still do not understand, as Mr Alan LEONG has asked just now, what situations — if the Secretary cannot illustrate them with a couple of examples, he will please do so with 10 examples — what situations have to emerge before the authorities are willing to enact legislation. The people of Hong Kong have already seen enough of this. If real estate developers intended to heed the authorities' advice, they would have done so a decade ago, and it would have been unnecessary to introduce the Bill into this Council .....*

**PRESIDENT** (in Cantonese): Miss CHAN, are you repeating Mr Alan LEONG's supplementary question?

**MISS TANYA CHAN** (in Cantonese): *Let me put it this way. My follow-up question is: The Secretary said in his reply just now that not only a couple of criteria are involved. Then, in his mind, how many criteria have to be met before consideration will be given to enacting legislation?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Regarding the question raised by Miss CHAN just now, actually many of the measures set out in the White Bill have already been included in the nine new measures proposed. That is, we have incorporated the previous measures in the



REDA's guidelines and the Consent Scheme. We consider it more effective and efficient to take forward this matter through the existing proposed approach. As regards whether legislation will be enacted in the future, I believe the issue will only be considered after the new measures have been implemented for a period of time.

**MISS TANYA CHAN** (in Cantonese): *President, the Secretary's reply is indeed misleading. Does he know that the Bill ..... it is not a matter of whether or not he knows ..... the Bill has provided for criminal liabilities .....*

**PRESIDENT** (in Cantonese): Miss CHAN, you can only say which part of the question the Secretary has not answered.

**MISS TANYA CHAN** (in Cantonese): *Very well.*

**PRESIDENT** (in Cantonese): If you think the Secretary's reply is misleading, please proceed with the debate through other means.

**MISS TANYA CHAN** (in Cantonese): *Very well. Since the Secretary has not given me a direct reply as to how many criteria have to be met before consideration will be given to enacting legislation, may I ask whether the authorities will wait until all the money of the public has been defrauded or otherwise?*

**PRESIDENT** (in Cantonese): Miss CHAN, you have asked your follow-up question. Secretary, do you have anything to add?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, as I have said just now, we will take into account a whole range of criteria instead of just a couple of criteria.

**DR MARGARET NG** (in Cantonese): *President, I would like to follow up the issue of transparency, that is, part (c) of Ms Emily LAU's main question. She asked "whether they had analysed, among the 28 functional constituencies of the Legislative Council, the number of functional constituencies, other than the real estate and construction functional constituency, the voters of which had direct and indirect interests associated with real estate developers". President, I will not ask any question about the other twenty or so FCs. I only want to ask who the voters of the real estate and construction FC are. Among the voters of the real estate and construction FC, there are 727 corporate voters and 286 voters who are natural persons. Under Section 20N of the Legislative Council Ordinance, voters of this FC are composed of the following: members of the Real Estate Developers Association of Hong Kong, members of the Hong Kong Construction Association, Limited and members of the Hong Kong E&M Contractors' Association Limited. President, a media agency once asked one of these associations about their membership, that is, the identities of those members with voting right, and the association only replied that there were 700 members with voting right. As for their identities, the association was silent about it.*

*President, I wish to ask the Secretary this question: given that the poll registers for direct elections in geographical constituencies are open for inspection by all members of the public, why should FCs, in particular, the real estate and construction FC, be allowed not to make public their membership lists? Does he agree that it is unnecessary to make the membership lists public? Does the Government know who they are? If even the Government itself does not know who these members are, how can it say that there is transparency? How can it give a reply to part (c) of Ms Emily LAU's main question?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): *President, Dr NG's question is beyond the purview of the Transport and Housing Bureau, but I am happy to refer Dr NG's question to the bureau responsible for this subject area.*

**DR MARGARET NG** (in Cantonese): *May I ask whether the Government knows the identities of these 700 members? If it does not, how can it give a reply to part (c) of Ms Emily LAU's main question?*

**PRESIDENT** (in Cantonese): Ms NG's question has not deviated from part (c) of the main question. Secretary, please reply.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Regarding members of the real estate sector, in formulating major policies pertaining to housing, in particular, the sale of residential properties, we mainly liaise with the Real Estate Developers Association of Hong Kong. As regards the specific situations of this sector, I believe the relevant information can only be provided by the relevant bureau responsible for this subject area.

**DR MARGARET NG** (in Cantonese): *He has still not answered my question. President, thank you for pointing out that this is actually part of the main question. It is up to them to decide which bureaux should be responsible for giving a reply, but they must answer all parts of the main questions asked by Members. How can they not know the identities of voters of these 28 FCs of the Legislative Council, particularly voters of the real estate and construction FC? There are only 900 voters in this FC, and just this association alone has accounted for 700 of them. Does the Government know who these people are? If it does not, what makes it think it can answer this question?*

**PRESIDENT** (in Cantonese): Secretary, can you obtain accurate information from the Constitutional and Mainland Affairs Bureau and give a reply to Dr NG's question?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I can refer this question to the relevant bureau and let it provide an answer to the Member. (Appendix II)

**DR MARGARET NG** (in Cantonese): *President, I do not take this as an answer because it is the business of the Chief Executive to decide which official should be responsible for answering this question, but he must give us an answer. May I ask the official to undertake to provide a reply to this question? I do not care*

*where he gets the answer, but he should not just refer the question to somebody else.*

**PRESIDENT** (in Cantonese): Will the Secretary please provide this Council with a reply to Dr NG's question after the meeting?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Yes.

**PRESIDENT** (in Cantonese): We have spent more than 25 minutes on this question. Last oral question now.

### **Promoting Use of Electric Vehicles**

6. **MR KAM NAI-WAI** (in Cantonese): *President, regarding the development of electric vehicles (EVs), will the Government inform this Council:*

- (a) of the current number of EVs in Hong Kong; given that the authorities have indicated that they would enhance the necessary ancillary infrastructure to facilitate the introduction of EVs, of the latest progress and expected completion date of such work;*
- (b) of the latest progress of the work carried out by the Steering Committee on the Promotion of Electric Vehicles (the Committee) under the leadership of the Financial Secretary; given that the authorities have indicated that the promotion of EVs was not restricted to private cars and they would closely monitor market supply situation and technical development to introduce other types of vehicles (including those heavier ones such as buses), of the latest progress of such studies and their expected completion dates; and*
- (c) whether the authorities had conducted any study on the emission of air pollutants from liquefied petroleum gas (LPG) taxis last year; if so, of the details; if not, the reasons for that; whether they have studied assisting the owners of LPG taxis in replacing their vehicles*

*with EVs; if so, of the content of the study and the estimated costs needed to replace the vehicles as well as its impact on air quality; if not, of the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Mr KAM Nai-wai for his question.

- (a) As at 30 April 2010, there were altogether 57 electric vehicles (EVs) for road use in Hong Kong, including 34 private cars, 17 motorcycles, four light goods vehicles and two public/private buses. The figures are certainly increasing as EVs from all over the world are developing and put to commercial production, and seek to enter the Hong Kong market.

On the provision of standard charging facilities for EVs, the Government and the two power companies have initially installed charging facilities at 37 locations across the territory. We will further set up charging stations at 25 other locations by mid-2010. The two power companies are providing free charging service at their charging stations. In this connection, I must stress that the number of charging facilities installed thus far is only the beginning; we will continue to extend our work in this area. I also believe that there will be a continual growth trend with an increase in the number of EVs introduced to Hong Kong.

As for quick charging, the CLP Power Hong Kong Limited (CLP) installed in February 2010 the first quick charger based on the protocol adopted in Japan to provide quick charging service for EVs. CLP is conducting a six-month trial on the quick charger and will closely monitor its usage and performance before proceeding with further promotion and introduction.

We will also collaborate closely with other organizations to expand the charging network for EVs. Earlier on, the Environment Bureau issued a pamphlet to property management companies and car park operators on the setting up of EV standard charging facilities at car parks. The Electrical and Mechanical Services Department has also

issued technical guidelines on the installation of charging facilities, with the same objective of encouraging property management companies and car park operators to gradually provide charging facilities for EVs to meet the demand for EV charging service which is expected to increase in the future.

- (b) Since its inception in April last year, the Committee led by the Financial Secretary has held three Committee meetings. The Committee has examined the Government's strategy and action plan for promoting EVs. It has also strived to strengthen the co-operation between the Government and EV manufacturers by, for example, participating in EV trial programmes, inviting major right-hand-drive EV manufacturers and agents around the world to present their promotion plans, and encouraging them to introduce a greater variety of EVs to Hong Kong. The Committee has also reviewed the latest developments of EVs and hybrid vehicles as well as the progress of setting up EV charging facilities in Hong Kong. In addition, we have made arrangements for committee members to take part in relevant promotional activities between meetings to enhance their understanding of the latest development in this regard.

On promoting commercial EVs, we hope to introduce them to Hong Kong as soon as possible so as to extend their use to the commercial transport sector because there are actually more vehicles in this sector than private cars. Commercial EVs have gradually been used overseas for various purposes (besides for the carriage of persons, they can be used for goods delivery). A British manufacturer of commercial EVs is planning to introduce various models of commercial EVs to Hong Kong for trial in the second half of this year.

Separately, to reduce emissions from public transport, the Innovation and Technology Fund has provided funding for the Hong Kong Productivity Council to work with public light bus operators on a research and development project on "plug-in hybrid vehicle system" for public light buses. The project covers road-based passenger capacity tests along a selected green minibus route. It is expected

that the system can save up to 50% of fuel and help reduce road-side emissions.

As for electric buses, we have all along encouraged bus operators to explore introducing suitable models of electric buses to Hong Kong. A local bus company is planning to introduce a "supercapacitor bus" to Hong Kong in July this year for on-site trial. We will continue to keep in view the progress, and we expect to see the application of this kind of new technology in Hong Kong.

- (c) Before LPG taxis were introduced, the Environmental Protection Department has requested the two vehicle manufacturers supplying taxis for Hong Kong to provide detailed emission test results. The information indicates that LPG taxis emit extremely low levels of respirable suspended particulates and nitrogen oxides. They also emit less carbon monoxide and hydrocarbon than diesel taxis.

The introduction of EVs to public transport requires an adequate supply of EVs — our earnest hope is that there will be an adequate supply of EVs — and an ancillary charging network and relevant supporting services, and repair and maintenance. Currently most of the EVs used in public transport overseas are still on trial. Given the relatively long daily mileage and business hours of local taxis, and the time it takes to charge an EV, it is yet to confirm and consider whether EVs can fit in with the operation mode of local taxis. However, we will be pleased to see the use of this technology in Hong Kong.

Perhaps I should add one point to the written reply I originally submitted to President. In the Budget this year, we especially proposed to set up a \$300 million Pilot Green Transport Fund. As I said when I answered questions in the past, the Fund is partly intended to encourage the public transport operators to introduce a technology similar to the EV technology to promote the use of such technology.

**MR KAM NAI-WAI** (in Cantonese): *President, the Secretary often tells us that there are a lot of encouraging measures, for example, providing tax concessions to attract the use of EVs in Hong Kong. But, we can actually see from part (a) of the Secretary's main reply that there are only 57 EVs in Hong Kong. It can be said that there is all thunder but no rain.*

*I wonder if the Government has set some targets on the number of EVs in Hong Kong in the next year or two. Even if the Government fails to control the use of EVs as commercial vehicles in the private market, has any targets been set within the Government requiring various departments to use EVs? As such, the Government can play a leading role in encouraging more people to use EVs, so that Hong Kong people can enjoy better air quality*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Mr KAM Nai-wai for his supplementary question. First, does the local EV market have its attractiveness? Of course, some people will say that the number seems not very high at present; but in view of the overall development of EVs, various countries in the world are now just beginning to engage in the commercial production or mass production of EVs.

Maybe I can share my views with Mr KAM Nai-wai from another angle. Among the manufacturers currently starting to engage in commercial production of EVs, how many of them will put the Hong Kong market in the front rank? As we have observed, two Japanese EV manufacturers currently regard Hong Kong as the first city outside Japan to which EVs will be sold. I know one of these manufacturers will start selling its vehicles in Hong Kong tomorrow, and we are its first market outside Japan.

I have also cited some examples in my main reply just now, for example, a British manufacturer is planning to introduce various models of commercial EVs to Hong Kong for trial. In the coming month, EV racing cars will be manufactured in a plant in the United States. The manufacturer told us when we met a few days ago that Hong Kong might be the first Asian city to which their cars would be introduced. Hong Kong obviously has its attractiveness.

Insofar as schedules are concerned, I understand that Mr KAM Nai-wai really hopes that we can work out a timetable, but sometimes we need to consider



the supply of vehicles. However, Mr KAM Nai-wai has asked a very good question about whether the Government will take the lead to use these vehicles. Among the 57 EVs currently running on roads, one third is actually used by the Government who has taken the lead in this respect. Yet, we will still pay close attention to the market situation with a view to promoting EVs.

**MS MIRIAM LAU** (in Cantonese): *I would also like to ask how the Government is going to encourage manufacturers or operators to introduce more EVs. I find that the Government has stated in part (b) of the main reply that it will encourage these manufacturers to introduce a greater variety of EVs to Hong Kong. However, I fail to see any encouraging measures.*

*Also, in the last paragraph in part (b), that is, the part about electric buses, the Secretary has said that "we have all along encouraged bus operators to explore introducing suitable models of electric buses to Hong Kong", but I fail to see what encouraging measures have been provided by the Government. The Secretary has just told us that a bus company is studying the matter.*

*President, during our visit to the Expo, I am deeply impressed by the electric buses used which do not require the installation of any charging facility. When the electric bus enters the charging stations, the facility on the bus top will allow immediate charging once the engine has stopped. If the bus stops for five minutes, it can be charged for five minutes. The tests on these facilities cannot be conducted by bus companies alone, the Government must get involved.*

*My supplementary question is: the Government has proposed many encouraging measures but it has just paid lip service without taking real actions. Will the Government really co-operate with bus companies in introducing electric buses similar to the kind that we saw during the Expo visit? If road-side charging facilities are installed, buses can be immediately charged when they stop at bus stations. Yet, the Government must take part. Will the Government commit to conducting the relevant tests with bus companies?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Ms Miriam LAU for her supplementary question. First of all, in enhancing the

attractiveness of Hong Kong as a user market, we have provided two major economic incentives. First, as compared with other vehicles, EVs are exempted from first registration tax, and we know that the maximum rate can be 100%. Second, in the budget this year, it is stated that enterprises can enjoy tax concession in the first year for the introduction of EVs for commercial use. Operators can be well benefited.

Regarding the new technology introduced for buses, Ms Miriam LAU and other Honourable Members know that we have always tried our best to encourage the participation of bus companies, but they must be willing to get involved. Recently, a bus company is planning to introduce a "supercapacitor bus" to Hong Kong. As Ms Miriam LAU has just mentioned, Shanghai or another Mainland cities possess the technology. Actually, staff of my department and representatives of the bus companies visited these Mainland manufacturing plants some time in the past. During my visit to the Expo, I also learnt of the charging and battery replacement technologies. According to our observation, from the initial use of this technology during the Beijing Olympic Games up till now, much progress has been made in terms of quantity and technology. We also try to identify the relevant technologies and consider whether they can be used in Hong Kong. Of course, besides public buses, we hope that these technologies can be developed for minibuses and taxis. Thus, I have added in the last part of my main reply just now that we hope the Pilot Green Transport Fund would allow local operators to co-operate in promoting the technologies in this respect.

**MS AUDREY EU** (in Cantonese): *President, we learn from the news reports that energy saving initiatives have been implemented on the Mainland. A number of cities have been designated to implement energy saving and new energy vehicle pilot projects. Shenzhen is one of the cities. We also learn that the project of "1 000 vehicles in 10 cities" is being promoted. According to a recent news report, electric taxis can be taken in Shenzhen in the future because 30 to 40 taxis will be introduced to Shenzhen. If Shenzhen can do so, why Hong Kong cannot?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, first, according to our strategies, as I have pointed out in my main reply and during previous discussions, we will make our best efforts to attract the introduction of local EVs or those from overseas. Yet, unlike other places such as the Mainland, Hong Kong does not engage in vehicle production while some Mainland cities such as Shanghai are production bases. The buses we saw at the Expo were the industrial products of Shanghai. We have actually contacted the relevant parties about the electric taxis recently put on trial in Shenzhen. These taxis are manufactured by a Shenzhen vehicle manufacturing plant. Last year, the plant planned to introduce a model of left-hand-drive EVs. We have discussed with them and explored whether they could manufacture right-hand-drive EVs. If they can, we welcome the conduct of trials on different types of technologies and vehicles in Hong Kong. It will be helpful to us if that can eventually be implemented.

**MR LAU KONG-WAH** (in Cantonese): *President, at present, a large amount of emissions from buses has really caused air pollution. The Secretary has just mentioned in his reply that a bus company is planning to introduce electric buses to Hong Kong in July. Which bus company is it? When will it introduce these buses and how this project operates? Ms Miriam LAU has just expressed her views on the Shanghai Expo and I share her views. I also think that electric buses are highly desirable as they can be charged at the stations. The Secretary also told us that he had learnt of the technologies when he visited the Expo. What follow-up actions are taken? It seems that there are no follow-up actions. Is the Government willing to facilitate the introduction of these rechargeable buses to Hong Kong by providing some subsidies?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): I thank Mr LAU Kong-wah for his supplementary question. First of all, I have just said that a "supercapacitor bus" would be introduced. As far as I know, the Kowloon Motor Bus is planning to conduct tests on the technology at its depots. As a matter of fact, we have always been trying to attract local public transport operators to introduce cleaner vehicles such as hybrid vehicles or EVs. As I just said, we and bus companies have visited such Mainland bus manufacturers to learn about their research and development work and see whether those buses are suitable for use in Hong Kong. In this connection, following the establishment

of the Committee led by the Financial Secretary, we have also invited some foreign bus manufacturers — even though their products are not entirely electrically driven but just hybrid vehicles — to introduce and explain why their vehicles should be introduced to Hong Kong. Last year, our efforts were mainly directly to two fronts. On the first hand, we hope to arouse the attention of other manufacturers to Hong Kong because Hong Kong, being a city, does not have high utilization rate of vehicles, yet we have quite a large number of vehicles. We would like to promote contacts between the two parties through this work. On the other hand, we hope that resources can be allocated under the future Pilot Green Transport Fund to allow tests to be jointly conducted in Hong Kong by public transport operators and those who master these technologies. I understand that people, especially public transport operators, sometimes greatly worry whether the relevant technologies can really operate in Hong Kong, is it appropriate to apply these technologies in Hong Kong and whether the present service levels can be maintained. Hence, as the first step, it may be best to conduct tests.

**DR PAN PEY-CHYOU** (in Cantonese): *President, it is actually a good measure for the Government to promote the introduction of environmentally friendly vehicles. However, just like implementing other government policies, the Government is very often over-cautious and indecisive. I am saying so because the Secretary has mentioned in his main reply that Hong Kong will further set up charging stations at 25 other locations by mid-2010 while there are 37 charging stations at present. That is a small number for Hong Kong as a whole. We also understand that EVs must be frequently charged, but how can members of the public be expected to use EVs if there are too few charging stations? He has indicated in his main reply that the Government will consider setting up more charging stations subject to the usage. If there is a lack of charging stations, who will buy and use EVs? Can the Secretary give some information to illustrate the costs of setting up an EV charging facility? And, can the Government put in more resources to speed up the relevant work?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Dr PAN for his supplementary question. I fully agree that setting up charging stations is crucial to the promotion of EVs. In the past year, we saw that EVs had really reached the stage of commercial production and sale. That actually happened a few months ago and the Government was among the first batch of buyers. What we mainly did in the past few months was that we started opening

up some "doors" at different places and assessing the difficulties that would be encountered when charging stations were set up there. Firstly, we found that only ordinary three-phase sockets are required for charging EVs, and the electricity consumed is less than we imaged. For this reason, our first step is to set up most of the dozens of charging stations in shopping centres and commercial carparks. These carparks vary in sizes, some are large carparks in urban areas while some are estate carparks in the New Territories. First, we would set up charging stations in different kinds of shopping centres or commercial carparks to prove that no problems will emerge in doing so. In this connection, the power companies will offer much help and will not charge electricity tariffs at this stage as an encouragement. What we should do now is to keep on opening up different "doors", so for the next step, we may set up charging stations in housing estates which may involve private ownership. Nonetheless, if people understand that only sockets will have to be provided by the housing estates and limited expenses will be incurred, the number of charging stations will increase when people can overcome these psychological obstacles. Hence, when EVs are really introduced to Hong Kong, we hope that the number would go up in a geometric progression after these "doors" have been opened.

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

**DR PAN PEY-CHYOU** (in Cantonese): *I ask about the costs of setting up a charging station. If the Secretary does not have the figures in hand, can he give a written reply?*

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): Actually, if such devices are set up in carparks, the costs involved are the installation fee for a cable and a socket, which may only be around \$1,000 to \$2,000. The power companies are now assisting in testing whether the relevant fees may be paid by Octopus Card. Taking the installation at Government building as an example, next time if you go to the Government Secretariat for meeting, you can see for yourself that the installation is simple, apart from ordinary sockets, only a meter has been added for computing purpose, so the cost is relatively low. Certainly, the cost of a quick charger may be higher, which is exactly what we need to ascertain through testing. Nonetheless, most charging facilities are very simple

and only sockets are needed. When the numbers keep increasing, we hope that would complement the introduction of EVs.

**PRESIDENT** (in Cantonese): This Council has spent more than 23 minutes on this question. Oral question time ends here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Provision of Internet Access Facilities in Old Buildings**

7. **DR SAMSON TAM** (in Chinese): *President, it has been learnt that with the rapid development of bandwidths for Internet access services (IAS), most households in Hong Kong at present subscribe to broadband IAS, but the broadband services using the Fiber-To-The-Home (FTTH) technology to increase upload and download transmission speeds are still not popular. Some residents of old buildings have relayed to me that they are unable to use broadband services provided via FTTH technology, which has caused much inconvenience to them. In this connection, will the Government inform this Council:*

- (a) of the current penetration rate in Hong Kong of broadband services using FTTH technology, and how it compares with those in the neighbouring regions;*
- (b) whether the authorities had, in the past three years, conducted any study on the difficulties encountered in providing households of old buildings with broadband services using FTTH technology; if they had, of the details; if not, the reasons for that; and*
- (c) of the policies and measures put in place by the authorities to expedite the promotion of broadband services using FTTH technology; if such policy and measure are not in place, of the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, Hong Kong is a telecommunications hub in Asia with a fully

liberalized telecommunications market. The Administration encourages network operators to make investments and expand their telecommunications networks so that the market will have a wider array of choices in telecommunications services. Following market and technological advancements, the major fixed network operators (FNOs) in Hong Kong have been actively developing their own FTTH or Fiber-to-the-Building (FTTB) services in order to offer IAS at higher speed and meet the growing demand.

My reply to the question raised by the Honourable Member is as follows:

- (a) According to the information published in February 2010 by the Fiber-to-the-Home Council, a multinational industry association, the household penetration rate for FTTH and FTTB services in Hong Kong (that is, the proportion of the number of households using FTTH or FTTB services to the total number of households) was 33%. Hong Kong was ranked third in the world and only behind South Korea and Japan. The FTTH and FTTB household penetration rates for some other places in Asia were as follows:

<i>Place</i>	<i>FTTH and FTTB Household Penetration Rate</i>
South Korea	52%
Japan	34%
Taiwan	24%

- (b) In accordance with the Telecommunications Ordinance, the FNOs are authorized by the Telecommunications Authority to install telecommunications lines in the common parts of buildings to provide service to users therein. However, some older buildings are not covered by FTTH and FTTB services due to various circumstances. The reasons may include the following: the commercial consideration of the FNOs; the FNOs not being able to contact owners of the building for discussing the installation of facilities in the common parts of the building; technical problems (for example, installing facilities in relatively narrow space), and so on.

The Office of the Telecommunications Authority (OFTA) is now in discussion with the FNOs on the technical issues associated with the

access of new generation network services (comprising FTTH and FTTB services) to buildings (including older buildings). We hope that this will help networks of the FNOs to gain easier access into older buildings.

- (c) In order to promote the access of fiber-based networks to buildings, the OFTA plans to introduce the Registration Scheme for Buildings with Optical Fiber-based Access Networks by the end of this year, and is now requesting the FNOs to provide information with a view to establishing a database of buildings that have access to FTTH and/or FTTB services. The OFTA also plans to launch public education programmes in relation to fiber-based network services, and will encourage FNOs to approach occupants of buildings that are not connected to fiber-based networks to discuss the access of such networks. We hope that these measures will push fiber-based networks to further develop.

### **Handling of Asbestos Found in Debris of Collapsed Building in Ma Tau Wai Road**

8. **DR LEUNG KA-LAU** (in Chinese): *President, it has been reported that the debris of the building at Ma Tau Wai Road which collapsed on 29 January this year was suspected to contain asbestos, and demolition of the affected buildings might even spread the asbestos dust from the debris to the residential units nearby, thus exposing the demolition workers and residents in the vicinity to the danger of inhaling asbestos dust. In this connection, will the Government inform this Council:*

- (a) *given that it has been reported that the Labour Department (LD) and the Environmental Protection Department (EPD) had collected air samples for testing from the aforesaid scene of building collapse, so as to ascertain whether workers would have the risk of inhaling asbestos fibres when carrying out the demolition works, of the testing method for the air test, number of samples collected, the locations where samples were collected and number of tests conducted; types of asbestos found in the samples and level of*



*asbestos in the air at the scene of the collapsed building according to the test results, as well as date and time of collecting the air samples concerned; if such information is not available, of the reasons for that;*

- (b) whether the LD and EPD have provided physical check-up for the personnel who handled the aforesaid building collapse incident and carrying out the demolition works (including firemen, health care personnel, police officers and demolition workers, and so on); if they have, of the details; if not, how the authorities ensure that the health of such personnel would not be adversely affected by the aforesaid demolition works;*
- (c) whether the aforesaid demolition works were undertaken by registered asbestos contractors; if so, of the details; if not, how the authorities ensure that the workers would not inhale asbestos fibres from the debris when conducting such works; and*
- (d) given that at present, quite a number of old buildings in To Kwa Wan need to be demolished or maintained, thus increasing the demand for construction and maintenance workers, whether the LD will exercise comprehensive monitoring to ensure that registered asbestos contractors who undertake such works provide each asbestos abatement worker with appropriate training and instructions, and ensure that they are equipped with the skills and knowledge necessary for asbestos abatement; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, before the 1980s, asbestos containing materials were commonly used in canopies or rooftop structures of old buildings for heat insulation. The asbestos containing materials found in the old buildings in the building collapse incident in To Kwa Wan (the incident) were mainly low-risk chrysotile corrugated cement sheets, which would not release asbestos dust under normal circumstances. The chance of asbestos dust release from fragments of this material would also be lower than other asbestos containing materials. The Air Pollution Control Ordinance (the

Ordinance) stipulates that all asbestos abatement works shall be undertaken by registered asbestos contractors in compliance with the statutory requirements and the relevant codes of practice. The Factories and Industrial Undertakings (Asbestos) Regulation (the Regulation) also sets out stringent rules on occupational safety and health for the contractors. All government departments co-operated closely in the incident and in working out the action plan, on-site monitoring as well as clearance work, strived to minimize the impact of asbestos dust on the environment and people concerned. The buildings affected by the incident contained only a small amount of chrysotile corrugated cement sheets and it was shown in the results of the ambient air and workers' safety monitoring conducted during the demolition work that the entire project was completed safely without posing any threat to the environment, workers involved and public health.

My reply to the above questions is as follows:

- (a) Before the demolition work was carried out, the Buildings Department (BD) and the EPD set up a number of air monitoring points close to the building collapse site and arranged a registered asbestos laboratory to conduct 52 numbers of ambient air monitoring to ascertain whether there was asbestos dust release during the demolition work. The monitoring results showed that the asbestos concentrations in ambient air were all below the lowest detection limit. Details of the ambient air monitoring results are tabulated below:

#### Ambient air monitoring results

<i>Date</i>	<i>Location</i>	<i>Asbestos concentration in ambient air</i>
4 February 2010	47 Ma Tau Wai Road	Below the lowest detection limit*
10 February 2010	7 locations next to 45 Ma Tau Wai Road	Below the lowest detection limit
11 February 2010 am	9 locations next to 45 Ma Tau Wai Road	Below the lowest detection limit
11 February 2010 pm	9 locations next to 45 Ma Tau Wai Road	Below the lowest detection limit

<i>Date</i>	<i>Location</i>	<i>Asbestos concentration in ambient air</i>
12 February 2010 am	9 locations next to 45 Ma Tau Wai Road	Below the lowest detection limit
12 February 2010 pm	9 locations next to 45 Ma Tau Wai Road	Below the lowest detection limit
1 March 2010	8 locations next to 45 Ma Tau Wai Road	Below the lowest detection limit

Note:

\* The lowest detection limit is at 0.01 fibre/mL

In addition to providing adequate personal protective equipment to workers and supervisory staff during the demolition and clearance works, the LD and EPD conducted a total of 24 air sampling tests at the building collapse site and the work site for stockpiling the debris of the collapsed building to monitor the extent of exposure of the workers to asbestos dust. Air samples collected by the two departments showed that the asbestos concentrations were at 0.02 fibre/mL or lower, far below the control limit of 0.5 fibre/mL as set out in the Regulation.

The two types of air monitoring results mentioned above showed that the demolition project posed no threat to the environment, workers involved and public health.

- (b) The LD and EPD held a briefing for relevant government departments on the incident to explain in detail the health impact of asbestos and the key things that the departments and their employees should take note of while carrying out building demolition and clearance works. The LD and EPD would offer assistance to these government departments as and when necessary.

Contractors responsible for carrying out asbestos demolition works are required under the Regulation to arrange pre-employment and regular in-service medical examinations for their workers. The LD will check for compliance with this requirement during their regular inspections. As for the demolition work in this incident, the LD had explained to the BD in detail the occupational safety and health

requirements that the contractors must observe under the Regulation in order to ensure that the BD would properly supervise their contractors to safeguard the occupational health of workers.

- (c) Throughout the demolition project, the BD employed registered asbestos contractors to assist in carrying out the demolition work as required under the Ordinance. Before the work was carried out, the BD consulted the LD and EPD in formulating a set of control measures to minimize the impact of the work on the environment, workers involved and public health. Adopted key measures included: removing asbestos containing materials under safe condition in the first instance; designating a segregation zone on the building collapse site; avoiding excessive breakage of asbestos cement sheets during demolition; carrying out profuse wetting to minimize asbestos dust release, providing suitable personal protective equipment for workers; conducting air monitoring for the workers and the ambient air; and arranging for proper disposal of asbestos waste. Both the LD and EPD officers conducted on site inspections during the demolition project and assisted in implementing the above measures.
- (d) In recent years, there are on average as many as 2 100 cases of unauthorized building demolition works and building renovation works that involve asbestos each year in Hong Kong. We believe the industry can cope with the asbestos removal works in old buildings. At present, the Occupational Safety and Health Council and the Construction Industry Council offer on a regular basis training programmes and skill tests for asbestos abatement workers to meet the training demand of the industry.

Under the Ordinance, a registered asbestos contractor is required to provide regular training to his asbestos workers and submit relevant records to the EPD for examination when applying for registration or registration renewal to ensure that his workers possess the necessary skills and knowledge for asbestos works. In addition, the Regulation requires a contractor to provide his asbestos workers with adequate safety and health training and instructions, including safety precautions for working with asbestos and proper use of personal protective equipment and other facilities. During inspections, the

LD officers will ensure that contractors strictly comply with such requirements.

### **Revitalization of Industrial Buildings**

9. **MR ANDREW LEUNG** (in Chinese): *President, the Government has implemented measures since April this year to revitalize old industrial buildings by processing centrally applications for redevelopment or conversion of industrial buildings, with a view to injecting new impetus into the development of old industrial areas and the cultural and creative industries of six economic areas where Hong Kong enjoyed clear advantages. It has been reported that at present, some industrial building owners intend to, after submitting applications for revitalizing and converting their old buildings for commercial use, set aside certain units for lease to artists for cultural and creative industries purposes. In this connection, will the Government inform this Council:*

- (a) *whether it has compiled statistics on the current number of artists whose studios are located in industrial buildings in old industrial areas; whether it has contacted the artists who at present cluster at the industrial buildings in old industrial areas such as Cheung Sha Wan, Kwun Tong, San Po Kong and Fo Tan, and so on, so as to gauge the impact of the measures to revitalize old industrial buildings on them; if it has, of the details;*
- (b) *whether it will assist artists in making contact with the aforesaid owners who intend to set aside some units in their converted industrial buildings for use by cultural and creative industries, so as to assist the artists to move into the revitalized units;*
- (c) *whether it has planned to implement appropriate measures (for example, the provision of rates or tax concessions), so as to attract more industrial building owners to lease more converted units to artists for use as studios;*
- (d) *how the Government's plan to inject \$3 billion into the Arts and Sport Development Fund (ASDF) will assist the arts and cultural sector in capitalizing on the development opportunities arising from*

*measures to revitalize old industrial buildings, so as to achieve a win-win situation; and*

- (e) *whether it will consider relaxing the existing vetting and approval criteria for converting industrial buildings in old industrial areas into venues for arts performances such as music or drama, and so on?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, in his policy address delivered in October last year, the Chief Executive announced a package of new measures to release the potential of old industrial buildings by encouraging building owners to carry out redevelopment and wholesale conversion. These measures were formally implemented on 1 April this year. A dedicated team has been set up at the headquarters of the Lands Department to centrally process applications for special waiver for wholesale conversion of industrial buildings, as well as applications for lease modifications for redevelopment of industrial buildings under the new measures.

Since the announcement of the new initiatives, Development Bureau has explained the measures to various business groups, professional bodies, local administration bodies and other stakeholders, and listened to their views, including groups and individuals engaging in cultural and creative industries. To address the concerns of the cultural and creative industries over the new measures to revitalize industrial buildings, Development Bureau and the relevant bureaux and departments have further considered ways to assist groups and individuals engaging in cultural and creative industries who may be affected during the transition period after implementation of the new measures so as to provide support to the industries.

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

- (a) The Planning Department conducted the latest "Area Assessments of Industrial Land in the Territory" in 2008-2009. Comprehensive and sample surveys have been carried out with regard to the uses of industrial buildings situated in "Industrial" and "Other Specific Uses (Business)" (OU(B)) zones respectively. The findings show that

among the units successfully surveyed, less than 1% were used as "Art/Music/Film studios".

In addition, the Hong Kong Arts Development Council (HKADC) will soon conduct a "Survey on the Current Status of Industrial Buildings for Arts Activities and Future Demand". The survey will, among other things, look into the number and distribution of arts groups and arts practitioners who are currently using industrial premises with a view to understanding their current situation and needs. It is expected that the survey will be completed by the end of this year.

- (b) We understand that some operators in the cultural and creative industries are concerned that during the transition period after implementation of the new measures, some owners intending to carry out redevelopment or wholesale conversion of industrial buildings may not renew the lease upon expiry; rental may rise as a result, making it difficult for them to continue to operate in industrial buildings. The Development Bureau is encouraging some industrial building owners who intend to apply for wholesale conversion to demonstrate their commitment to corporate social responsibility by setting aside part of the floor areas in their converted buildings for leasing to operators in the cultural and creative industries who may be affected by the new measures. These floor areas would be leased at a concessionary rental during the transition period after implementation of the new measures as support for the local cultural and creative industries. These private organizations would participate in this scheme on a voluntary basis as an act of corporate social responsibility. The tenancy agreements signed under this scheme will be private tenancy agreements between the participating owners and the cultural and creative industry operators who apply for renting of the converted units. The Development Bureau will be responsible for disseminating information about the industrial buildings participating in this scheme so that cultural and creative industry operators may contact the building owners direct to discuss leasing matters.

- (c) The objective of the new measures to revitalize industrial buildings is to release the potential of old industrial buildings early by redevelopment and wholesale conversion, so as to provide suitable land and premises to meet the needs of the Hong Kong community and the development of a knowledge-based economy, including the six economic areas (such as cultural and creative industries) in which Hong Kong has comparative advantages as identified by the Chief Executive's Task Force on Economic Challenges.

Over the past 20 years, the Town Planning Board (TPB) has introduced a range of planning measures to facilitate better uses of old industrial land and industrial buildings, such as broadening the permissible uses in industrial buildings and rezoning surplus and suitable industrial land for non-industrial uses. Building on the above, the new measures to revitalize industrial buildings are formulated to offer further support in respect of land administration to encourage redevelopment and wholesale conversion of industrial buildings by owners.

We only require that the new uses of the redevelopment or wholly converted industrial buildings should comply with the permitted uses in the relevant zones. We will not impose any new restrictions on the use of the converted industrial buildings. We believe that owners will determine the best uses for the redevelopment or converted buildings having regard to factors such as market demand, locations of the industrial buildings and situations of the existing tenants. For the same consideration, the Government has no intention to introduce additional policy initiatives to attract owners to allocate the converted units for any particular use.

- (d) The Home Affairs Bureau proposes to inject \$3 billion into the ASDF as seed money and to use the annual investment return of the Fund to provide sustainable additional resources for subsidizing the long-term development of the arts, culture and sport. The injection will be divided equally between the arts portion and sports portion of the Fund.



The Home Affairs Bureau plans to set up a new funding mechanism to support arts and cultural projects of substantive scale initiated by artists or arts groups, as well as other longer-term yet time-limited arts and cultural programmes. In parallel, the Home Affairs Bureau also plans to provide additional funding to support schemes or projects initiated or recommended by the HKADC, particularly to promote the development of small and medium-sized arts groups, nurture budding artists, and enhance community appreciation of and participation in culture and the arts. Around \$30 million would be reserved annually for the HKADC for such purposes.

Through its various funding schemes, the HKADC has in fact been supporting and meeting the needs of arts groups and artists of different nature and development stages. Among others, its "One-year/Two-year Grant" schemes aim to provide strategic support to local small and medium-sized professional arts groups to facilitate their longer-term planning and development. We understand that some groups currently supported by "One-year/Two-year Grant" schemes are users of industrial premises. The provision of additional funding to the HKADC from the ASDF will be conducive to enhancing the HKADC's resources for supporting local arts groups and artists.

- (e) Conversion of industrial buildings for other uses must be in compliance with uses permitted under the statutory plans for the relevant zones. According to the sets of "Definitions of Terms" used in statutory plans, venues for arts performances such as music or drama, and so on, are defined as uses of "Place of Recreation, Sports or Culture", which are always permitted in the non-industrial portion on the lower floors of buildings provided with a buffer floor in "Industrial" and OU(B) zones. If a "Place of Recreation, Sports or Culture" is to be provided on floors other than the said non-industrial portion, or in industrial buildings without a buffer floor, an application for planning permission from the TPB is required. "Place of Recreation, Sports or Culture" is an always permitted use in "Commercial" zone and in industrial buildings which have undergone wholesale conversion for non-industrial uses in OU(B) zone. Apart from planning requirements, owners of

industrial buildings are required to comply with the relevant legislation and licensing requirements.

According to the Buildings Ordinance, "places of public entertainment" are those specified in section 2 and Schedule 1 of the Places of Public Entertainment Ordinance (Cap. 172), which include music or drama performance venues. To dovetail with the new measures to revitalize industrial buildings and to facilitate the industry to set up places of public entertainment in converted industrial buildings, the Buildings Department has re-examined the relevant requirements under the Building (Planning) Regulations for setting up places of public entertainment in non-domestic buildings without polluting industrial undertakings. The relevant practice note has also been revised accordingly. Provided that safety requirements are met, each wholly converted industrial building can accommodate places of public entertainment with a total capacity of not more than 500 persons.

### **Protection of Consumers' Rights and Interests**

10. **MR JAMES TO** (in Chinese): *President, the Secretary for Commerce and Economic Development indicated at the meeting of this Council on 6 January this year that the Administration would speed up the review of the Trade Descriptions Ordinance (Cap. 362) and submit to the relevant Panel of this Council a paper on the proposed legislative amendments to regulate issues such as pre-paid services (including telecommunications service contracts, and so on) and high-pressure marketing practices. Moreover, in order to heighten customer satisfaction levels by improving the provisions used in telecommunications service contracts, the Office of the Telecommunications Authority (OFTA) issued in February this year a Code of Practice for Communications Service Contracts (the CoP) and invited communications service providers to comply with the Code voluntarily. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of complaints received by the police and the Consumer Council in each of the past three years about pre-paid*

*services involving beauty care, yoga, fitness and travel club membership and, among them, the number of such cases resolved, together with a breakdown by the type of the cases;*

- (b) when the authorities expect to complete the aforesaid work to amend the Trade Descriptions Ordinance, commence public consultation on the proposed amendments and give an account of the work progress to the relevant Panel of this Council;*
- (c) whether at present there are communications service providers which voluntarily comply with the aforesaid Code of Practice issued by the OFTA; if so, of the list of such companies; if not, what methods the Government will adopt to encourage communications service providers to comply with the Code of Practice; and*
- (d) given that the OFTA has been implementing a pilot programme for the Customer Complaint Settlement Scheme (CCSS) since September 2008 to provide mediation and adjudication services for disputes relating to telecommunications service contracts, of the total number of cases handled under the pilot programme to date, the respective numbers of those resolved through mediation and adjudication and, among the cases resolved by adjudication, the respective numbers of those in which decisions have ruled in favour of the customers and those in favour of the telecommunications service providers?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, in line with our earlier commitment, we issued a paper to the Panel on Economic Development on 17 May providing details on the legislative proposals prepared by the Administration to tackle unfair trade practices. After listening to and considering Members' views, we will finalize the document for public consultation as soon as possible. Apart from proposing to strengthen existing legislation and institutions, we will continue our efforts in consumer education and publicity, so as to increase consumer awareness of unfair trade practices.

The replies to the four parts of question are as follows:

- (a) The number of complaints received by the Consumer Council between 2007 and 2009 concerning prepayment in the industries named below, and the number of such cases resolved, are as follows:

	2007		2008		2009	
	<i>Complaints</i>	<i>Cases resolved</i>	<i>Complaints</i>	<i>Cases resolved</i>	<i>Complaints</i>	<i>Cases resolved</i>
Beauty care and slimming services	921	409	1 353	480	1 480	388
Fitness Club (including yoga)	713	465	469	258	514	158
Travel club and time share holiday	118	32	144	27	251	25

The police does not keep statistics on reported cases concerning prepayment.

- (b) The review of existing legislation to better tackle unfair trade practices is almost completed. We will present the Government's proposals at the meeting of the Panel on Economic Development scheduled for 24 May. Our plan is to publish a public consultation document in the third quarter of this year.
- (c) The OFTA issued a voluntary the CoP in February this year. The CoP serves to provide guidelines to the industry for making service contracts that are fair and reasonable, with a view to increasing customer satisfaction levels. The CoP covers various dimensions of such contracts, including the format of contracts, how to handle

oral agreements and the extension of contracts, the right of customers to terminate contracts, and so on.

Operators are now reviewing their respective operating systems to assess whether they can pledge full compliance with the CoP. Nevertheless, as observed by the OFTA, the services provided by some operators are already in compliance with certain terms of the CoP. The OFTA will continue to follow up with operators and encourage them to comply with the CoP in full. If we find no improvement in the situation in respect of communications service contracts, we will not rule out the introduction of more stringent measures, such as mandatorily requiring operators to comply with the CoP.

- (d) The CCSS aims at resolving contractual or billing disputes between customers and telecommunications service providers through mediation and adjudication. The OFTA ran a pilot scheme of the CCSS from September 2008 to February 2010, with the participation of three operators. Eighteen cases were processed under the scheme. The status of the cases is as follows:

<i>Status</i>	<i>Number of Cases</i>
Settled after mediation	6
Adjudication completed (results as follows:)	11
Ruled in favour of the operator	4
Ruled in favour of the customer	5
Both parties have to bear some responsibility	2
Pending ruling by the adjudicator	1
Total	18

The OFTA plans to consult the public later this year on the long term implementations of the CCSS.

### **Outstanding Leisure and Cultural Services Projects of Former Municipal Councils**

11. **MR ABRAHAM SHEK** (in Chinese): *President, regarding the outstanding leisure and cultural services projects of the former Municipal Councils (MCs), will the Government inform this Council:*

- (a) *according to the latest progress of the aforesaid projects, which projects the estimated project costs of which are at variance with the initial estimates, and of the variations;*
- (b) *of the estimated number of jobs to be created in the construction industry by each of the aforesaid projects yet to be commenced;*
- (c) *whether there are measures in place at present to expedite the implementation of such projects; if so, of the details; if not, the reasons for that;*
- (d) *given that the authorities advised in a paper submitted recently that they were further processing 51 of the aforesaid projects, and quite a number of such projects are still under review, whether the authorities have formulated any timetable for the review of such projects; and*
- (e) *given that as revealed by the information provided by the authorities, Kwai Tsing District Council has supported the deletion of the "Indoor Recreation Centre Area 9H, Kwai Chung" project, and the site is reserved for public housing development by the Hong Kong Housing Authority, of the details of the public housing to be developed at the site, including the estimated project costs, dates of commencement and completion of the works, as well as the number of public housing units to be provided?*

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

- (a) Of the 139 outstanding leisure and cultural services projects of the former MCs, the latest approved project estimates of 13 projects are at variance with the initial project estimates approved by the Finance Committee. Please refer to the Annex for details.

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- (b) Construction of the public library and indoor recreation centre in Area 3, Yuen Long is planned to start in July 2010. We estimate that this project will involve the creation of about 445 jobs (including 400 for labourers and 45 for professional/technical staff). For the remaining projects, the detailed designs are still being finalized, and at this stage we are unable to estimate the number of jobs to be created.
- (c) We will take forward the outstanding leisure and cultural services projects of the former MCs in consultation with the District Councils (DCs), taking account of the relative priorities of the projects with reference to district needs. We will liaise with other departments to speed up planning work so that the projects can be implemented according to schedule.
- (d) Initial planning for some of the 51 projects in question is underway while others are being reviewed. To ensure the timely implementation of projects, we have already developed some of the subject sites using District Minor Works funding approved by the DCs. Progress in implementing projects is affected by various factors. For example, some of the sites originally earmarked for projects are no longer available, and some projects are no longer required by the local community. We continue to consult the DCs regularly on the priorities of the projects with reference to district needs.
- (e) The public housing development project at Tai Pak Tin Street, Kwai Chung Area 9H, involves the construction of a 41-storey housing block to provide some 830 rental flats, a covered multi-purpose sports venue, open space, and two footbridges and a lift tower to connect with Shek Lei Estate and On Yam Estate. The cost of the project is approximately \$370 million. Construction started on 30 November 2009 and is expected to be completed by early 2013.

<i>PWP No.</i>	<i>Project Title</i>	<i>Variance between Latest APE and Initial APE (\$ million)</i>
Construction works completed		
3242RS	Tseung Kwan O Sports Ground	+ 99.7 (34.0%)
3256RS	Indoor recreation centre, community hall cum library in Area 17 Tung Chung, Lantau	+ 38.1 (9.7%)
3244RS	Hin Tin Swimming Pool — Phase 2	+ 9.6 (5.8%)
3394RO	District open space in Area 39, Fan Ling/Sheung Shui	+ 8.0 (23.1%)
3396RO	District open space in Area 2 Tung Chung Lantau	+ 10.3 (27.2%)
3399RO	District open space in Area 35, Tsuen Wan — Phase 2	+ 5.2 (10.5%)
3379RO	Cherry Street Park, Tai Kok Tsui	+ 14.5 (18.9%)
Construction works in progress		
3395RO	Ma On Shan Waterfront Promenade	+ 15.5 (7.5%)
3047RG	Siu Sai Wan Complex	+ 52.4 (12.7%)
3406RO	District open space at Po Kong Village Road, Wong Tai Sin	+ 54.1 (12.8%)
3260RS	Swimming pool complex in Area 2, Tung Chung, Lantau	+ 31.2 (7.6%)
3261RS	Sports centre in Area 28A, Fan Ling/Sheung Shui	+ 110.5 (44.3%)
3419RO	Aldrich Bay Park	+ 19.6 (17%)

## Water Conservation

12. **MR CHAN HAK-KAN** (in Chinese): *President, the drought which earlier occurred continuously in the south-western part of the Mainland has aroused public concern about the stability of fresh water supply from the Mainland to Hong Kong. There are views that Hong Kong should further promote the concept of water conservation, and the Government itself should take the lead in reducing wastage of fresh water as well as developing new water resources. In this connection, will the Government inform this Council:*



- (a) *which five government departments had the highest water consumption in the past three years, of their respective water consumption and expenditures on water charges (list out in a table);*
- (b) *given that at present some tasks of government departments (for example, watering flowers and washing streets, and so on) which consume relatively large quantity of water use fresh water, whether it will consider using reclaimed water and seawater instead, which has been filtered and purified; if it will, of the specific arrangements; if it will not, the reasons for that;*
- (c) *whether specific targets will be set for water conservation within the Government; if so, of the details; if not, how it encourages various government departments to reduce the use of fresh water; and*
- (d) *whether the study currently undertaken by the authorities on lowering the cost of producing reclaimed water will include assessing the implications of the relevant measure for future water charges, and apart from this study, what other measures are in place to develop new water resources?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, to meet the long term demand for potable water in Hong Kong and respond more effectively to the unpredictable climate changes, the Government promulgated the Total Water Management Strategy in October 2008. The Strategy puts emphasis on containing growth of water demand through conservation. The aim is to prepare for contingencies and, in regard to the demand and distribution of water resources, enhance our role as a good partner of other municipalities in the Pearl River Delta region by doing our part in water conservation. This will be beneficial to the whole region to cope with uncertainties, such as climate changes and low rainfall.

My reply to the four parts of the question of Mr CHAN is as follows:

- (a) The water consumption of the five departments with the highest consumption in the past three years is as follows:

<i>Name of Department</i>	<i>2006-2007 (million cu m)</i>	<i>2007-2008 (million cu m)</i>	<i>2008-2009 (million cu m)</i>
Leisure and Cultural Services Department	11.1	11.9	11.8
Food and Environmental Hygiene Department	4.2	4.1	3.6
Correctional Services Department	4.0	3.7	3.7
Hong Kong Police Force	2.0	2.1	2.1
Drainage Services Department	1.4	1.6	1.9

Under the current charging policy, Policy Bureaux and departments are exempted from water charges. But "notional revenue" from their water consumption, computed on the basis of water tariff applicable to the public, is included in the Operating Accounts of Water Supplies Department (WSD). The total notional revenue from water consumption of the government departments for the past three years is \$450 million.

- (b) The completed pilot scheme on using reclaimed water in Ngong Ping and Shek Wu Hui confirms that the scheme is technically feasible. We are now considering using reclaimed water instead of potable water for non-potable purposes such as toilet flushing, street washing, vehicle washing and irrigation in Sheung Shui and Fan Ling. The WSD together with other government departments have started to look into ways to lower the cost of supplying reclaimed water. For the time being, we do not have any plan to extend the scheme to other areas since the use of reclaimed water is still under study.
- (c) The specific targets for water conservation within the Government have two fronts. For existing government buildings and schools, the WSD has commenced works on installing 23 000 water saving devices. Upon completion in 2011, it is anticipated that it can reap an annual saving of 2 million cu m of potable water, 0.8 million cu m of seawater for toilet flushing and 1.5 million kilowatt-hours in energy consumption for treatment and delivery of the potable water and seawater. As for new buildings, the Government issued an internal technical circular in April 2009 on

green government buildings. It requires all new government buildings to install water saving devices, such as low-flow water taps and dual flush cisterns. In addition, we have implemented trial schemes on recycling grey water and harvesting rainwater for non-potable uses in a number of government buildings. The WSD will review the standards adopted in these trial schemes in drawing up a set of comprehensive standards and technical guidelines to pave the way for wider use of recycled grey water and harvested rainwater for non-potable uses in future.

The Government has also planned to commission a consultancy study on water consumption practice of major government departments with a view to formulating for related facilities guidelines on saving water without affecting the level of public services. We will start with reviews on the facilities of WSD as well as parks and swimming pools of Leisure and Cultural Services Department before gradually extending the review to other departments that are major water consumers.

- (d) The current study on lowering the production cost of reclaimed water focuses on technical feasibility. It does not cover impact assessment for future water charges.

Apart from conducting studies on production of reclaimed water, the WSD commenced in 2003 pilot plant study on application of reverse osmosis technology in desalination in Tuen Mun and Ap Lei Chau. The pilot study, completed in 2007, confirms that the reverse osmosis desalination technology is technically viable in Hong Kong. However, as the cost of desalination is much higher than Dongjiang water, huge investment in desalination is not cost-effective for the time being. But we expect that advances in technology, such as improved efficiency in energy recovery systems and application of large diameter membrane in reverse osmosis process, will bring down the costs over time. Therefore, we will continue to closely monitor the latest developments in desalination technology as a possible way to expand our sources of water supply in future.

The Government is also expanding the programme of seawater flushing to reduce the consumption of potable water for this purpose. Main laying and infrastructural facilities are underway in Yuen Long, Tin Shui Wai, Tuen Mun East and Pokfulam to supply seawater for toilet flushing. They are scheduled for completion in 2014. We have also started planning for the expansion of seawater flushing supply system to Tung Chung on Lantau Island.

### **Elderly People Suffering from Dementia**

13. **DR PAN PEY-CHYOU** (in Chinese): *President, I have received complaints from quite a number of elderly groups and family members of elderly people that fundings currently provided by the Government for care services for elderly people suffering from dementia and support for these elderly people are far from adequate. In this connection, will the Government inform this Council, with respect to each year from 2004 to 2008:*

- (a) *of the number of elderly people suffering from dementia in Hong Kong; whether it knows among them, the number of attendances at hospitals or clinics under the Hospital Authority (HA) and the Department of Health (DH), as well as the number of elderly people who were waiting for places in subvented care and attention homes or infirmaries through the Standardized Care Need Assessment Mechanism for Elderly Services (SCNAM) of the Social Welfare Department (SWD) (set out in the table below);*

<i>Year</i>	<i>Number of elderly people suffering from dementia in Hong Kong</i>	<i>Number of elderly people suffering from dementia who are waiting for places in subvented care and attention homes or infirmaries through the SCNAM of the SWD</i>	<i>Number of attendances of elderly people suffering from dementia at hospitals or clinics under the HA and DH</i>
2004			
2005			
2006			
2007			
2008			

- (b) *whether it knows the respective numbers of elderly people suffering from dementia who are residing in various residential care homes for the elderly (RCHEs), receiving home care services in day care centres and receiving home-based community care services (set out in the table below); and*

<i>Year</i>	<i>Number of elderly people suffering from dementia</i>		
	<i>Residing in various RCHEs</i>	<i>Receiving home care services in day care centres</i>	<i>Receiving home-based community care services</i>
<i>2004</i>			
<i>2005</i>			
<i>2006</i>			
<i>2007</i>			
<i>2008</i>			

- (c) *of the amount of designated funding provided by the Government for care services for elderly people suffering from dementia, as well as the number of beneficiary organizations of such services, whether it knows the average enrolment rate, average waiting time and number of beneficiaries (set out in the table below)?*

<i>Year</i>	<i>Care services for elderly people suffering from dementia</i>				
	<i>Amount of designated funding</i>	<i>Number of beneficiary organizations</i>	<i>Average enrolment rate</i>	<i>Average waiting time</i>	<i>Number of beneficiaries</i>
<i>2004</i>					
<i>2005</i>					
<i>2006</i>					
<i>2007</i>					
<i>2008</i>					

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, like other developed economies, Hong Kong is facing the challenges of an ageing population. Hence, the Government has been allocating additional resources in

recent years to enhance the care services for elders, including the support for demented elders and their carers.

My reply to Dr PAN Pey-chyou's questions is as follows:

- (a) According to the study conducted jointly by the DH and the Department of Psychiatry of The Chinese University of Hong Kong in 2006, around 9.3% of elders aged 70 or above living in the community suffered from dementia. Based on the elderly population (aged 70 or above) of about 678 000 in mid-2009, it is estimated that there are some 63 000 demented elders living in the community at present.

The Elderly Health Centres (EHCs) of DH provide clinic service of health assessment, counselling, curative treatment and health education, and so on, to enrolled elderly members, including those suffering from dementia. The number of demented elders served by EHCs from 2004 to 2008 is as follows:

<i>Year</i>	<i>Number of demented elders receiving service at EHCs</i>
2004	298
2005	241
2006	250
2007	244
2008	302

As regards the HA, as elders may have more than one disease at a time (for example, elders with chronic diseases may also be diagnosed with dementia), the HA would arrange for doctors of different specialties to follow up their cases, having regard to the elders' different clinical needs and conditions, so as to provide them with appropriate care. In individual circumstances, patients with dementia may be provided with services by more than one specialty, including internal medicine, geriatrics and psychiatric departments. The number of dementia patients referred to the psychiatric department for follow-up is as follows:

<i>Year</i>	<i>Number of patients with dementia followed up by the psychiatric department of HA (estimate)</i>
2004	8 100
2005	8 800
2006	9 300
2007	9 700
2008	10 000

Note:

The above figures do not include demented elders followed up by other specialties.

The SCNAM of the SWD adopts an internationally recognized assessment tool to assess elders' abilities in looking after themselves, their physical functioning, memory, communication skills, behaviour and emotion, health conditions, living environment and abilities in coping with their daily activities, and so on, in order to recommend and match appropriate care services for elders in need. Since the assessment is not designed for the purpose of medical treatment, its focus is on elders' capability in respect of the abovementioned areas, and not on ascertaining whether they are suffering from any particular disease. The SWD has no separate record of the number of demented elders being matched with services through the SCNAM.

- (b) At present, there is no requirement for elders receiving various kinds of elderly care services to go through an assessment on dementia. Hence, we do not have precise information on the number of demented elders using our services.

Nevertheless, the SWD has been providing a "dementia supplement" (DS) to all subvented RCHEs in the territory since the 1998-1999 financial year, enabling RCHEs to employ additional professional staff to provide care services and arrange training activities for demented elders. The allocation of DS has been further extended to cover all private RCHEs participating in the Enhanced Bought Place Scheme (EBPS) since 2009-2010. RCHEs applying for DS have to report to the SWD the number of residing elders suffering from

dementia (that is, the number of elders confirmed to be suffering from dementia by the psychogeriatric team of the HA). Based on the information collected from this channel, the number of demented elders residing in the RCHEs receiving DS from 2004-2005 to 2009-2010 is as follows:

<i>Financial year</i>	<i>Number of demented elders in the RCHEs</i>
2004-2005	1 848
2005-2006	2 005
2006-2007	2 180
2007-2008	2 358
2008-2009	2 542
2009-2010	3 962

Since the DS arrangement is not applicable to subsidized day care services, home care services or private RCHEs not participating in EBPS, the SWD does not have the relevant figures in respect of these services.

- (c) Regarding elderly care services, as mentioned above, all subvented RCHEs and private RCHEs participating in EBPS have been receiving DS. The DS allocation from 2004-2005 to 2009-2010, the number of beneficiary organizations and beneficiaries are as follows:

<i>Financial year</i>	<i>Allocation for dementia supplement</i>	<i>Number of beneficiary organizations</i>	<i>Number of beneficiaries</i>
2004-2005	\$14.3 million	110	1 848
2005-2006	\$13.7 million	116	2 005
2006-2007	\$13.7 million	121	2 180
2007-2008	\$22.4 million	124	2 358
2008-2009	\$24.3 million	127	2 542
2009-2010	\$42.5 million	257	3 962

In addition, the Government allocated an extra \$17.12 million to 188 subsidized RCHEs and day care centres in 2008-2009 so that they could improve their facilities (such as installing anti-wandering



systems and multi-sensory facilities, and so on) for serving demented elders.

Like other elders, demented elders are provided with appropriate care services according to the results of SCNAM. We have not compiled separate statistics on their service enrolment rate and average waiting time.

Apart from the above, the psychiatric department and memory clinics of the internal medicine specialty of the HA provide assessment, treatment and rehabilitation services to patients with dementia. The HA's various community outreach services for elderly patients, such as psychogeriatric outreach services, community geriatric assessment team outreach services and community nursing services, also serve patients with dementia.

Besides, the Elderly Health Service (EHS) under the DH actively promotes elderly health and carer skills. Dementia is part of it. Since these health promotion activities and the clinic services as mentioned in part (a) of the reply constitute only part of the overall work under EHS, we are not able to provide a breakdown on the funding designated for dementia services. Health promotion on dementia covers all elders and their carers in Hong Kong, and the clinic services are part of the services provided by EHCs. There is no additional waiting time for demented EHC members. Please see part (a) of the reply for the number of beneficiaries.

### **Copyright Issue of Information to be Disclosed Under Code on Access to Information**

14. **DR DAVID LI:** *President, I have received a complaint from a member of the public that recently a government department has refused his request under the Code on Access to Information (the Code) for a copy of a document in the Government's possession, on grounds that the requested document was covered by copyright. According to section 57 of the Copyright Ordinance (Cap. 528), for a work which has for any purpose in the course of public business been communicated to the Government, the Government may "copy the work, or issue*

*or make available copies of the work to the public without infringing any copyright in the work". Yet, it also states that "this section has effect subject to any agreement to the contrary between the Government and the copyright owner". In this connection, will the Government inform this Council:*

- (a) what constitutes an agreement under the aforesaid section for the purpose of the Code;*
- (b) whether, in the event that no agreement exists, it is the Government's normal practice, upon receipt of a request for information over which copyright exists, to write to the copyright owner to seek permission to copy the work under the Code and, if such permission is not granted, to treat such refusal as an agreement not to allow copies to be made; if so, whether it has assessed if such practice is in line with the spirit of the Code; and*
- (c) among the requests for information received by the Government last year, of the number of those which were related to work covered by agreements between the Government and the copyright owners and, among them, the number of requests for information which were refused by the Government for reasons of copyright under the Code?*

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS:**  
President,

- (a) and (b)

The Code enshrines the policy that the Government will make available information that it holds, unless there are valid reasons under the Code to withhold the information. One of the reasons stipulated in Part 2 of the Code is legal restrictions, that is, requests may be refused for information the disclosure of which would constitute a contravention of any law which applies in Hong Kong.

Section 57 of the Copyright Ordinance provides a limited and specific exception to the Government where it may, subject to certain conditions set out in the same section, copy a copyright work

that belongs to a third party, or issue or make available copies of the work to the public without infringing any copyright in the work. The conditions include such copying, issuing or making available copies of a work must be for the purpose for which the work was communicated to the Government, or any related purpose which could reasonably have been anticipated by the copyright owner, and that the work has not previously been published otherwise than by virtue of section 57 of the Copyright Ordinance.

Moreover, it is expressly provided under section 57(5) that the exception is subject to any agreement to the contrary between the Government and the copyright owner. The "agreement" here refers to an agreement which prohibits the Government from copying the work or issuing or making available copies of the work to the public. Where there is such an agreement, the Government cannot invoke section 57(2) to copy, issue or make available copies of the work to the requestor of information. On the other hand, where there is no such an agreement, whether to copy, issue or make available copies of the work to the requestor of information will be considered on a case-by-case basis.

One of the factors to be considered is whether the request is "third party information". Under the Code, requests for information may be refused if the information is held for, or provided by, a third party under an explicit or implicit understanding that it would not be further disclosed. However, such information may be provided to the requestor with the third party's consent.

- (c) The Constitutional and Mainland Affairs Bureau collates statistical returns from government bureaux and departments on requests received and processed under the Code, including the number of refusal of requests for information and the reasons concerned under Part 2 of the Code.

In 2009, bureaux and departments processed a total of 1 676 requests for information, 94% (1 580) of which were met in full, 3% (48) in part, while another 3% (48) were refused. The refusal of the requests for information in whole or in part was based on reasons

specified in the Code. About 8% of the refusal cases were based on the reason of legal restrictions and 27% were based on the reason of third party information. Both reasons may apply to cases involving copyright. However, we do not keep a separate breakdown which can show the number of refusal cases involving copyright reasons.

### **Quality of Building Materials for Public Rental Housing**

15. **MR FREDERICK FUNG** (in Chinese): *President, recently, I have received complaints from public rental housing (PRH) tenants that humid weather has caused serious mouldy and wet floor conditions in many PRH estates, and bulges and mould are found on painted walls and ceiling plaster inside household units as well as in the joints or cracks of structures. Residents slipping and falling easily on slippery floors in common areas is a very common phenomenon, especially in PRH estates which were newly completed in recent years (for example, Un Chau Estate Phases 2 and 4, Fu Cheong Estate, Hoi Lai Estate and Shek Kip Mei Estate, and so on). In this connection, will the Government inform this Council:*

- (a) *of the number of similar complaints received by the authorities in the past two years; whether they have proactively investigated the reasons for the aforesaid mouldy conditions; if they have, of the outcome, whether it is related to the quality and standard of materials (for example, the absence of antimould property in paints, and so on) or the defects in the joints between prefabricated building components resulting in easy seepage of water vapour or rain water, and so on;*
- (b) *whether the authorities will consider providing assistance to the affected PRH tenants and taking remedial measures (for example, refurbishing wall paint and plaster, and so on, in the case of mouldy indoor conditions; enhancing clean-up work, providing air blowing or dehumidifying facilities and laying non-slip rugs, and so on, in the case of slippery floors in common areas, so as to ensure that the floors of corridors and lobbies are dry); and*

- (c) *whether the authorities will focus on the aforesaid mouldy conditions and setting afresh the standard of materials for PRHs to be built as well as improve the relevant construction procedures and techniques?*

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

- (a) At present, we do not keep any complaint statistics on mould growth or slippery floors resulting from humid weather. According to site inspections on those mould growth and water dripping cases that are reported to Housing Department (HD) staff, a combination of factors such as humid weather, insufficient ventilation, cold surfaces of walls, floors or water pipes, and so on, would lead to condensation and cause the problems. The records of Hong Kong Observatory showed that the average relative humidity from February to April 2010 at 85% was a record high in recent years and there were frequent temperature fluctuations, which might lead to more cases of mould growth and water dripping.

In general, we use anti-mould coating/painting systems and anti-slip floor tiles in PRH estates. Prefabricated building components are designed with waterproofed joints to prevent penetration of water vapour or rain. However, previous technical studies indicated that even the special anti-condensation paints available in the market could not completely prevent the phenomenon of condensation in severe conditions with high relative humidity.

In the light of the above, we consider that mould growth and water dripping in public rental estates are not related to the quality and standard of the building materials nor is it due to inadequate joints of prefabricated building components.

- (b) The HD will carry out remedial works if the problems were caused by substandard material or workmanship. Generally speaking, since mould growth inside flats was mainly caused by seasonal humid weather and was unrelated to the quality or standard of

materials, the HD would not arrange inflate redecoration work. During humid weather, the HD will step up ventilation and cleansing, and will provide blower fans, and so on, to keep public areas dry and comfortable.

- (c) We regularly review our material specifications, installation procedures and techniques taking into account new technologies and materials available in the market. We are now carrying out a consultancy study to enhance the anti-mould property of paints, which involves collecting samples of mould from existing estates for devising a local mould growth resistance paint test.

### **Illegal Rooftop Structures in Single-staircase Buildings**

16. **DR LAM TAI-FAI** (in Chinese): *President, it has been learnt that at the meeting between Members of this Council and members of the Tsuen Wan District Council (DC) held on 29 April this year, some DC members complained that the problem of illegal rooftop structures (IRSs) on single-staircase buildings in the district was serious, and it had plagued residents for years which was not yet resolved. In this connection, will the Government inform this Council:*

- (a) *of the total number of single-staircase buildings in Hong Kong at present, broken down by DC district, and among them, the number of buildings found to have IRSs;*
- (b) *given that the Buildings Department (BD) has indicated that according to the requirement of the "Code of Practice for the Provision of Means of Escape in Case of Fire", in the case of a single-staircase building in which the level of the highest floor is more than 13 m above ground level (that is, exceeding three storeys in height in general), the staircase should be continued to the roof, which is the fire refuge area for residents, therefore it is BD's target to remove all IRSs on single-staircase buildings exceeding three storeys in height in Hong Kong, whether the authorities will expand the aforesaid target to include removing IRSs on single-staircase buildings not exceeding three storeys in height;*

- (c) *of the latest progress of the BD's operation to remove IRSs on 5 500 single-staircase buildings, and after the removal of IRSs, the total number of such buildings found to have IRSs re-erected; whether there are measures to curb such situations; if there are, whether it has assessed the measures' effectiveness; if not, the reasons for that;*
- (d) *since the launch of the operation to remove IRSs on single-staircase buildings, of the number of warning notices registered with the Land Registry by the Building Authority (BA) in respect of the notices the BA issued to the owners concerned for the removal of IRSs, and among such structures, the number of those which still have not been removed to date, and of the measures taken by the BD to solve this problem;*
- (e) *apart from the operation to remove IRSs on single-staircase buildings, whether the BD had, in the past five years, taken other actions to tackle such IRSs; if it had, of the details; if not, the reasons for that;*
- (f) *whether there is any existing measure to assist property owners, who are unable to take out third party insurance for their premises due to the existence of illegal structures on rooftops of their buildings, in taking out insurance; if so, of the details; if not, the reasons for that;*
- (g) *what measures the authorities have in place to assist property owners in removing illegal structures on rooftops which are located in the common areas of their buildings; and*
- (h) *of the criteria based on which the authorities assess whether illegal structures pose immediate danger, and whether those criteria include the factor of adverse weather?*

**SECRETARY FOR DEVELOPMENT** (in Chinese): President, according to the BD's requirement, for buildings of which the level of the highest floor is more than 13 m above ground level (which is equivalent, in general, to buildings of over three storeys in height), the rooftop acts as the refuge area for residents in case of fire. IRSs on such buildings will obstruct the refuge area, thus posing

serious fire safety risk to the residents. To safeguard public safety, the BD launched a special enforcement operation in 2001. The target was to remove IRSs on some 4 500 single staircase buildings exceeding three storeys within seven years. The operation had already been completed in 2007. During the operation, the BD identified that some 1 000 additional single staircase buildings over three storeys in height also had IRSs constructed. Therefore, the BD continued the clearance operation to tackle the problem. This further clearance operation is also near completion.

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

- (a) The BD does not have statistical information on the distribution by DC district of single staircase buildings in Hong Kong at present. Regarding the abovementioned some 5 500 single staircase buildings over three storeys with IRSs identified, the distribution of their numbers according to the DC district is as follows:

Central and Western District	1 007
Wan Chai	494
Eastern District	192
Southern District	200
Kowloon City	694
Kwun Tong	68
Sham Shui Po	527
Wong Tai Sin	157
Yau Tsim Mong	809
Islands	57
North District	188
Sai Kung	57
Sha Tin	104
Tai Po	252
Tsuen Wan	242
Tuen Mun	48
Yuen Long	381
Kwai Tsing	27
Total	5 504



- (b) The clearance of IRSs on single staircase buildings is to remove serious fire hazards. All buildings in Hong Kong shall comply with the requirements under the Buildings Ordinance and the Building (Planning) Regulations to provide means of escape in case of emergencies. The BD has issued the "Code of Practice for the Provision of Means of Escape in Case of Fire" to provide guidelines for compliance with the requirements on means of escape. The Code requires that if the level of the highest floor of a building is more than 13 m above ground level, the staircase should be continued to the roof which acts the fire refuge area for residents in case of fire. Therefore, the BD's target is to accord priority to clear IRSs on these buildings. Regarding IRSs on other single staircase buildings, the BD will tackle them in accordance with the prevailing enforcement policy against unauthorized building works (UBWs). If the concerned IRSs constitute obvious danger to life or property, the BD will take immediate enforcement action. If they do not fall within the categories that require immediate enforcement, the BD will issue warning notices to the concerned owners requiring them to remove the IRSs. If an owner does not remove the concerned structure upon the expiry of the period prescribed in the warning notice, the BD will deliver the warning notice to the Land Registry for registration in the relevant land register. The registration will only be cancelled after the removal of the structure.
- (c) As at the end of April 2010, out of the abovementioned some 5 500 single staircase buildings over three storeys in height with IRSs, the BD has already removed the IRSs on some 5 370 buildings. Enforcement action will continue so as to tackle the rest of the single staircase buildings.

To stop the proliferation of new unauthorized structures, the BD has commissioned consultants to set up special inspection teams to investigate into and follow up with reports lodged by the public, carry out regular patrol over the territory to proactively identify UBWs under construction and take appropriate enforcement action. If the BD discovers unauthorized re-erection of structures on the some 5 500 single staircase buildings, it will take immediate

enforcement action. Last year, the Department issued around 140 orders in total to enforce against re-erection of IRSs, of which most were minor illegal structures such as shelters made of light-weight material, prefabricated storage installations, and so on. Most of the owners complied with the orders to remove the illegal structures. Regarding the owners who fail to comply with the orders, the BD will continue to follow up and consider initiating prosecution.

- (d) Regarding the removal of IRSs on single staircase buildings launched since 2001, the BD issues removal orders instead of warning notices to the owners concerned. As mentioned in part (c), the BD will continue to tackle the IRSs on the remaining some 130 single staircase buildings.
- (e) As mentioned in part (b), the BD's target is to accord priority to clear IRSs on single staircase buildings of over three storeys in height in Hong Kong. Regarding IRSs on other single staircase buildings, the BD will take immediate enforcement action if the IRSs constitute obvious danger to life or property. If the IRSs do not fall within the categories that require immediate enforcement, the Department will issue warning notices to the concerned owners requiring them to remove the IRSs. If an owner does not remove the concerned structure upon the expiry of the period prescribed in the warning notice, the BD will deliver the warning notice to the Land Registry for registration in the relevant land register. The registration will only be cancelled after the removal of the structure.

(f) and (g)

Building works in contravention of the Buildings Ordinance may have been carried out in certain buildings resulting in difficulty in procurement of third party risks insurance. For such buildings, the BD together with its partner organizations, including the Hong Kong Housing Society (HKHS) and Urban Renewal Authority (URA), offer various loan and subsidy schemes to provide financial and technical support to assist owners' corporations (OCs) and individual owners in need to repair their buildings, including the removal of

UBWs. The assistance schemes include the "Comprehensive Building Safety Improvement Loan Scheme" administered by the BD; the "Building Maintenance Grant Scheme for Elderly Owners", "Building Maintenance Incentive Scheme" and "Home Renovation Loan Scheme" administered by the HKHS as well as the "Building Rehabilitation Materials Incentive Scheme" and "Building Rehabilitation Loan Scheme" administered by the URA. The Administration will continue to encourage OCs and owners to make use of these assistance schemes to demolish UBWs. Technical advice will also be provided to owners should they encounter any difficulties in carrying out demolition works.

In addition, to assist owners or occupants of IRSs to handle the problems arising from clearance operations, the BD has collaborated with several government departments, including the Housing Department (HD), Home Affairs Department and Social Welfare Department (SWD), to establish a mechanism to maintain close co-ordination and co-operation to provide assistance to the concerned owners and occupants. Under the established mechanism, before issuing removal orders to the concerned owners, the BD will inform the departments concerned in advance, including the SWD, so as to provide assistance to the affected parties. The HD will carry out registration for occupants affected by clearance and arrange for rehousing for eligible occupants. For the purpose of early identification and handling of emotional problems and other difficulties facing owners and occupants affected by clearance, the BD has commissioned non-governmental social service organizations to set up social service support teams in the Department, with dedicated social workers to provide counselling, support, referral and other services to the concerned owners and occupants.

- (h) If the BD identifies new UBWs, re-erected UBWs, UBWs under construction, UBWs constituting obvious danger to life or property, or UBWs constituting a serious hazard or serious environmental nuisance, it will take immediate enforcement action to safeguard public safety and health. Regarding structural condition of UBWs,

professional staff of the BD will carry out inspection to determine if the structures constitute obvious or imminent danger by considering, amongst other things, whether they are in a serious dilapidated condition, structurally unstable or in excess of the load bearing capacity of the parent buildings. The factor that UBWs have been eroded under natural environment (including "inclement weather") or have become dilapidated due to disrepair, rendering their structure dangerous, is also one of BD's considerations for taking enforcement action.

### **Confidentiality Clause in Agreements Signed Between Government and Commercial Organizations**

17. **MR PAUL TSE** (in Chinese): *President, I have learnt that, in the contracts or agreements signed between the Government or the companies of which the Government is the major shareholder and some private organizations on joint implementation of certain projects or programmes (such as the agreements signed between the MTR Corporation Limited and the Skyrail-ITM (Hong Kong) Limited, as well as that between Hong Kong IEC Limited and its management company, and so on), very often there are confidentiality clauses which allow such private organizations to have priority in receiving their shares of the revenues regardless of whether the joint ventures have incurred losses, and such arrangements involve large amounts of public funds. In this connection, will the Government inform this Council:*

- (a) how and when it will release to the public the expenditure involved in the aforesaid contracts or agreements as well as the contents of the clauses; whether the Government has considered how to protect the public's and tax payers' right to know before signing such contracts or agreements with private organizations; if so, of the criteria for consideration; if not, whether it will study introducing such a requirement and the related criteria expeditiously;*
- (b) of the total number of contracts or agreements, signed between the Government and private organizations in each of the past three years and were not made public due to confidentiality clauses, which*

*contained the clauses granting the latter priority in receiving their shares of revenues, as well as the public funds involved; and*

- (c) *of the existing mechanism, measures and procedure for monitoring the contracts or agreements signed between the Government and private organizations which contain confidentiality clauses similar to the above?*

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

- (a) and (c)

Companies established by the Government with the Capital Investment Fund (including companies established for investment projects jointly implemented by the Government and private organizations) are operated on commercial principles. Before signing any agreements with other private organizations, these companies are required to obtain the necessary approval in accordance with their own corporate management practices, governance structure and internal procedures. This is in line with the general practice adopted by commercial enterprises. As such, whether to release to the public the expenditure or any clauses of the relevant contracts or agreements is the decision of the companies concerned.

Expenditure arising from any government investment projects financed by the Capital Investment Fund (including projects jointly implemented with private organizations) must be approved by the Legislative Council. Key features as well as the financial arrangements of such projects will be set out in the funding application submitted by the Administration to the Legislative Council. The criteria for releasing relevant information depends on circumstances of individual cases, including considerations on policy and commercial grounds, and the public right to information, and so on.

- (b) In the past three years, the Government has not formed any joint venture companies with private organizations through funding from the Capital Investment Fund.

### **Conserving Rare Species of Butterfly**

18. **MRS REGINA IP** (in Chinese): *President, it has been reported that in recent months the butterfly assemblages located in the fung shui wood and the adjoining scrubland in the vicinity of the hillside of Lung Kwu Tan Village were sprayed with herbicides, causing the death of Bidens alba and Lantana, which are the main nectar plants for the locally rare Cethosia bildis. The site covers an area of 2 576 sq m, and half of the affected area is Government land. According to the Agriculture, Fisheries and Conservation Department (AFCD), it is an offence to spray herbicides or carry out illegal excavation on Government land. Yet, some experts have pointed out that Lung Kwu Tan has been exposed to damages since five years ago, and the number of butterfly species in the area is decreasing, and some rare species such as Prioneris thestylis and Prioneris philonome also disappeared. In this connection, will the Government inform this Council whether it will conduct a review on how to enhance law-enforcement actions, and what specific plans are in place to conserve the rare species of butterfly in Hong Kong?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the Government is committed to the promotion of nature conservation, and over the years, the AFCD has been implementing various measures to conserve the local butterflies and their habitats. Some important habitats for butterflies, such as Siu Lang Shui and Fung Yuen Valley, are listed as Sites of Special Scientific Interest (SSSI), and the AFCD has been conducting habitat management on these sites to protect their biodiversity. To provide a better habitat for butterflies, the AFCD has implemented habitat enhancement plans in various sites. For example, at areas like Shing Mung Country Park and She Shan SSSI, the AFCD has grown host plants for rare butterfly species such as Golden Birdwing (*Troides aeacus*), Common Birdwing (*Troides helena*) and Common Rose (*Pachliopta aristolochiae*), and has enhanced the breeding success of these species. Furthermore, the Tai Po Environmental Association (TPEA) has since 2005 received funds from the Environment and Conservation Fund to implement the

Management Agreement project under the New Nature Conservation Policy. TPEA has set up the Fung Yuen Butterfly Reserve on the private land of around 2 hectares at Fung Yuen, and embarked on butterfly conservation works thereat. The project has improved the butterfly habitat and increased the diversity of butterfly species at Fung Yuen.

Since 2002, the AFCD has initiated a territory-wide survey programme on butterfly, which includes a baseline survey on the species, abundance and distribution of butterflies in Hong Kong, as well as regular monitoring of the important habitats for butterflies. The survey shows that both the abundance and number of species of butterflies in Hong Kong have increased in the past few years. At present, Hong Kong has 240 butterfly species, among which over 98% could be found in local protected areas such as country parks and special areas.

The Lung Kwu Tan area is presently not covered by any statutory town plan. Land development of the area however would have to be subject to relevant legislation. Regarding the report that the hillside of Lung Kwu Tan Village has been damaged, we understand that Government land nearby has previously been illegally excavated. In this connection, the Lands Department has cleared the illegally grown plants, fenced off the site, and has stepped up patrolling efforts thereat, to prevent Government land from being illegally occupied. As to the private agricultural land at the site, government departments will continue to monitor the relevant sites, and will take enforcement actions if necessary.

According to the observations of the AFCD, there is no evidence to show that the number of butterfly species is decreasing at Lung Kwu Tan. In fact, the number of some butterfly species will fluctuate during years and seasons. For some butterfly species such as the Spotted Sawtooth (*Prioneris thestylis*) and Redspot Sawtooth (*Prioneris philonome*), there have been very few records of their appearance at the Lung Kwu Tan site over the years. There has also been no clear data to show that these species have disappeared from the site. In order to conserve the butterflies at the site, the AFCD will continue to monitor the butterfly species and their abundance at the site, and keep in view the ecological environment of the butterfly habitats there.

### Postings of Administrative Officers

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

- (a) *in respect of each of the administrative officers who were at the rank of Administrative Officer Staff Grade B1 (AOSGB1) or above in 2002 (excluding those who had retired or left the civil service since then), of the duration of each of his different postings since 2002;*
- (b) *of the relevant policies or factors considered by the Government at present for determining the duration of any particular posting of an administrative officer, as well as the details; if there is no such policy and factor, the reasons for that; and*
- (c) *whether there is any mechanism in place to assess the impact of the duration of a particular posting of the aforesaid administrative officers on their performance in discharging the duties of the post concerned; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President, with regard to the question at part (a), there are 21 Administrative Officers (AOs) who were at the rank of AOSGB1 or above on 1 July 2002 and who are still in active service as of today. During this period of time, the duration of each of the postings of these officers ranged from less than a year to over six years. The median duration of each posting was about three years. The position is summarized below:

<i>Duration of a posting</i>	<i>Number of postings</i>
(i) less than a year	8
(ii) one to less than two years	9
(iii) two to less than three years	15
(iv) three to less than four years	20
(v) four to less than five years	11
(vi) five to less than six years	2
(vii) six years or above	2



With regard to the question at part (b) above, the AO grade is a general grade. AO posts of different ranks (ranging from the entry rank to the highest rank of AOSGA1) are found in Policy Bureaux and a number of departments. Officers in the AO grade are posted on a regular basis to bureaux and departments to undertake work of different nature, such as policy formulation, resource management, district administration, delivery of public services, and so on. Regular posting allows AOs to gain wide exposure and acquire experience in different areas of public administration. It enables them to master the comprehensive and macro perspectives while engaging in a particular area of government work. It enhances their sensitivity to the views and needs of different stakeholders in the community, and helps them to balance the competing interests of different sectors of the community. Regular posting also allows AOs to build up the competencies and skills necessary for public administration, such as a good grasp of basic constitutional, legal and human rights principles; the ability to make strategic decisions; the readiness to embrace change and innovation; the ability to manage crises; and the versatility to cope with new challenges.

In general, the aim is to subject senior directorate AOs (that is, those at the AOSGB rank and above) to postings every three to five years, junior directorate as well as non-directorate AOs (that is, those at the AOSGC and Senior Administrative Officer ranks) every three years or so, and newly recruited AOs to at least two postings during their three-year probation period. The different durations have regard to the demands of work at different levels and to the need for AOs to acquire all-rounded skills in the earlier years of their career.

Within the aim stated above, the timing of postings of individual AOs is influenced by a host of practical considerations. A major consideration is the nature of work involved. For example, directorate AOs engaged in work of a more specialized nature may stay in their posts for longer than the normal duration. Alternatively, AOs tasked to undertake specific one-off assignments (for example, co-ordination of the celebration events for the 10th Anniversary of the HKSAR, Secretary to the Commission of Inquiry on Allegations relating to the HK Institute of Education, Secretary to the Inquiry on Penny Stocks, and so on) stay in the posts concerned for the duration of the assignments. Other major practical considerations include the operational needs of the bureaux and departments with AOs due for posting or vacant AO posts to be filled, other personnel changes in the bureaux and departments concerned, the manpower

situation of the AO grade, the matching of skills and personality with jobs, the career development and enrichment needs of individual AOs, the personal circumstances of individual officers where relevant, and so on.

With regard to the question at part (c) above, the performance of every post-probationary AO, irrespective of his or her rank, is subject to annual appraisal. This mechanism enables the supervising officer, the counter-signing officer and the head of the AO grade to assess an AO's performance in a specific AO post during the appraisal period, including whether his or her performance has been affected by the short, or normal, or extended duration of his or her posting. The mechanism also allows the supervising and/or counter-signing officers to advise how long the AO under appraisal should stay in his or her present post from the view point of the operational needs of the bureau or department concerned and the career development of the officer concerned. Such advice is given due regard by the head of the AO grade when considering the timing of posting of the AO concerned.

### **Combating Illegal Football Betting**

20. **MR LAU KONG-WAH** (in Chinese): *President, regarding the police's efforts in combating illegal football betting and drink driving during the World Cup 2010, will the Government inform this Council:*

- (a) *whether the police will deploy additional manpower to combat illegal football betting and drink driving during the aforesaid period; if they will, of the additional manpower to be deployed, and whether the manpower deployed for other police work will be affected;*
- (b) *given that while the police had, during the past World Cup matches, deployed police officers to undertake law-enforcement actions against illegal football betting in bars in various districts, and with the advancement of technology, many lawbreakers have switched to the Internet to engage in illegal football betting and receive bets for football betting, whether the police will change its strategy to combat illegal football betting on the Internet; of their strategy on*

*gathering evidence, and whether there is a need to enhance their computer resources and information technology manpower;*

- (c) whether the police have commenced their actions in combating the aforesaid problems, and whether they have assessed the effectiveness of those actions so far; if assessment has been made, of the results; and*
- (d) given that the police have stated that they will strengthen their liaison with the law-enforcement agencies of the Mainland, Macao and Southeast Asian countries and exchange intelligence with them during the World Cup period in order to combat illegal football betting, of the present progress and the number of operations conducted in the past three months?*

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

- (a) The police have been combating drink driving through publicity, education and enforcement, and there would be no exception during the World Cup. On publicity and education, the Police Regional Road Safety Teams would enhance their publicity efforts at bar areas and distribute leaflets appealing to members of the public not to drive after drinking. On law enforcement, the police will continue to conduct Random Breath Tests Operations at appropriate time and locations in order to enhance deterrent effect.

On combating illegal gambling activities, the police will step up law-enforcement actions against illegal football betting during the World Cup. The relevant arrangements have been included in the police's overall plan for this year.

The abovementioned arrangements will not affect the manpower deployment for other police duties.

- (b) The police have been closely monitoring Internet gambling activities. To combat the relevant crimes, the Technology Crime Division of the police will conduct cyber patrols. Other formations

will also gather intelligence through different channels, investigate illegal gambling websites within and outside Hong Kong and take law-enforcement actions after gathering sufficient evidence. In addition, the police will also conduct internal training and update equipment and facilities so as to raise front-line officers' knowledge in the latest development of Internet gambling activities and enhance their capability in handling such cases.

(c) and (d)

The police have strategies in place to combat illegal gambling and will adjust the operational deployment flexibly depending on the situation. In order to prevent and address the possible increase in illegal football gambling activities during the World Cup, a special cadre has been set up with the Organised Crime and Triad Bureau co-ordinating the work of the headquarters, regional and district formations in this respect.

Besides, owing to the vigorous enforcement actions taken by the police over the years, most of the illegal bookmaking syndicates have moved their operation bases to places outside Hong Kong, including operating illegal gambling websites or offshore bookmaking activities through other Internet platforms. In view of this, the police have maintained close liaison through existing communication channels with their counterparts in the Mainland, Macao and South East Asia to exchange information and carry out joint operations from time to time targeting criminal syndicates based in or outside Hong Kong. During the World Cup, the police will continue to step up law-enforcement actions against illegal football gambling with the law-enforcement agencies of the Mainland, Macao and overseas through existing communication channels.

In the first quarter of this year, the police successfully conducted four raids and arrested seven people, involving an amount of more than \$550,000 in illegal bookmaking.

**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 the motions each may speak, including reply, for up to 15 minutes, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and other Members each may speak for 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: Reviewing occupational safety and health and employees' compensation system.

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

I now call upon Mr IP Wai-ming to speak and move his motion.

**REVIEWING OCCUPATIONAL SAFETY AND HEALTH AND EMPLOYEES' COMPENSATION SYSTEM**

**MR IP WAI-MING** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. President, the motion today is related to occupational safety and health and employees' compensation system. Before I present my arguments, allow me to relate a true story I learnt first hand.

I know a man whom I call "Fatty", who is in his prime forties. He worked as an aircraft load handler at the airport, joining the trade in 2003. Each day, he had to move luggage weighing over 90 kg all the time as well as pushing pallets weighing over 1 000 kg. After working for two years, "Fatty" began to experience various physical problems, so he had a physical examination by magnetic resonance imaging. The doctor said that only one ligament on his shoulder had not yet been torn and that the cartilage of his shoulders and knees was all worn. Now, he feels pain in his arm even when cooking and when using the toilet, his legs feel very weak. Even his marital life is affected and now, he also has to receive psychiatric treatment as well. In 2007, he lodged his case

with the Labour Department but the Department told him that his occupational injuries were not included in the list of statutory occupational diseases. For this reason, he has not received a cent of compensation so far. He is now applying for legal aid to claim compensation from his employer. In the face of this extended legal process, there is no knowing when he can get the compensation to which he is entitled owing to his occupational disease. "Fatty" is a "wage earner" at the grassroots who lives from hand to mouth. He also has to meet the high medical costs. He has no other means of living, so does society really want to force him to apply for Comprehensive Social Security Assistance (CSSA)?

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

Deputy President, today, in recounting the story of "Fatty", I wish to highlight the backwardness of the legislation on occupational safety and health and the employees' compensation system in Hong Kong. Employees who sustain work injuries are the victims, so why do they have to face so many hurdles? Why are they penalized and tormented? Why can they not receive a single cent of compensation for their occupational injuries? The story of "Fatty" is only the tip of the iceberg and under the existing system, it is necessary to claim compensation through complicated and prolonged legal processes in many work injury cases, so even many employees with a higher level of educational attainment find this unbearable.

The existing Employees' Compensation Ordinance was enacted and came into effect in 1953, so it has been in operation for more than half a century. Although some patchwork was made on a number of occasions during this period, only a piecemeal approach was adopted and it cannot meet the needs of society nowadays. Another major deficiency of the system is the lack of a work injury rehabilitation system that can enable workers to recover or develop new skills as quickly as possible after sustaining their injuries, so that they can return to their original posts or switch to an occupation suited to them. Such a system can help reduce the burden borne by various parties in society.

Some literature overseas points out that if employees cannot return to work within half a year of sustaining their injuries, the likelihood of their returning to work is only 50%. If they cannot return to work within two years of sustaining their injuries, the likelihood of their returning to work is almost 0%. In view of

this, if we want to help injured employees return to and work in society again, it is necessary to introduce a systematic work injury rehabilitation system, so as to realize the principle of early intervention.

Unfortunately, although the Government and even society as a whole all subscribe to this concept, we can see that the Government has all along procrastinated on this, unwilling to make any commitment to this by injecting more resources into the introduction of a central rehabilitation mechanism and there is also a lack of case officers to follow up this kind of cases. Instead, it has introduced voluntary rehabilitation schemes in conjunction with insurance companies. However, not all employees who have sustained work injuries can join this kind of schemes. We find that quite a number of insurance companies only choose employees who would yield the greatest cost-effectiveness to join such schemes. Some workers who had sustained work injuries told us that such schemes had completely failed to provide suitable medical support. Many workers have to join the queue for public medical service again, while some other insurance companies force workers to return to work as soon as possible, so workers are subjected to great mental pressure and this kind of schemes have failed to serve their original purpose.

I believe that the Government should formulate a comprehensive policy, an occupational safety and health policy that combines the three major principles of compensation, rehabilitation and prevention, to address the problem at root. As early as 1992, the Hong Kong Federation of Trade Unions (FTU) already advocated the establishment of a central employees' compensation fund (the compensation fund) and we think that nowadays, such a demand has become all the more urgent. The mode of operation of the compensation fund is such that it is managed by a non-profit-making central employees' compensation authority which underwrites all workers' insurances, as well as paying out compensation to employees who sustained injuries, died or were afflicted by occupational diseases in the course of employment. We believe such a compensation fund regime has two merits: First, the insurance premium is linked to the level of occupational safety. The level of insurance premium is determined by the monitored safety track record of employers, such that employers will be encouraged to attach a high degree of importance to occupational safety; second, we believe that this will help reduce administrative costs and the resultant savings can thus be used to increase the amount of compensation for employees who sustained injuries or

died and more resources can be devoted to the development of effective rehabilitation services. We strongly demand that the Government actively launch studies on and make preparations for a compensation fund scheme, so that employees can work with greater peace of mind at an early date.

On the legislation on occupational safety and health, at present, there are mainly two pieces of legislation on occupational safety and health in Hong Kong, one of them being the Factories and Industrial Undertakings Ordinance and the other being the Occupational Safety and Health Ordinance. The framework of these two Ordinances is based mainly on the concepts of self-regulation and general duties, which owe their origins to similar legislation in the United Kingdom.

Unfortunately, the Hong Kong Government did not borrow the enactments in the United Kingdom in their entirety, nor has it kept abreast of the times. In the United Kingdom, apart from the principal legislation of the Health and Safety at Work Act, there are also many supplementary regulations and codes of practice that flesh out and complement the former, whereas in Hong Kong, this kind of legislation is lacking.

Take the industrial accident figures in the construction industry as an example, the numbers of injuries and deaths in the construction industry have remained high and the number of fatal cases has increased over the years. If Members' memory is still fresh, the tragedy that happened in the International Commerce Centre in September last year led to the death of six workers and this accident is still fresh in our minds. We have done an analysis of the accidental deaths in the construction industry in 2009 and found that there were nearly 20 cases of persons falling from height, accounting for more than 80% of all accidental deaths in the construction industry. Hence it is evident that the risk of working at height is quite high. With the successive launch of the 10 infrastructure projects and various small-scale and medium-scale projects, we are concerned that the number of industrial accidents will rise accordingly.

Deputy President, early this year, the Occupational Safety and Health Committee under the FTU and its affiliate, the Hong Kong Construction Industry Employees General Union, demanded that the Government step up its regulation of work at height and enact a particular law to regulate the safety of work at height, so as to protect the lives of workers. Unfortunately, the response of the



Administration at that time was, "The general duties provisions are already very comprehensive and adequate for the protection of all workers. There is no need to enact a separate law.". Is this really the case? If it is, why has an increasing number of workers in the construction industry died from falling from height?

In 2005, a particular piece of legislation regulating the safety of work at height covering all industries was enacted in the United Kingdom, specifying clearly that risk assessments on all kinds of work at height must be carried out by qualified persons, as well as the responsibility of all the people concerned.

Separately, we think that the existing penalties for violation of the Occupational Safety and Health Ordinance and the Factories and Industrial Undertakings Ordinance lack deterrent effect. We can see that in many cases, the Court only fined the employers tens of thousands of dollars. Compared with these projects that often involved billions of dollars, a fine of tens of thousands of dollars is really paltry. In 2007, the collapse of a tower crane at the construction site where the former Mitsukoshi Department Store was located led to two deaths and five injuries but the company concerned was only fine \$36,000 — Deputy President, it was only \$36,000. What is the proportion of the fine to the cost of the project? We believe that if the Government does not increase the penalty or increase the deterrent effect of the fine, it is practically impossible for the existing two Ordinances to serve their purpose of protecting workers. Regarding the other views expressed by me in my motion, several of my colleagues will supplement them.

In sum, we believe that the existing employees' compensation system and occupational safety and health legislation in Hong Kong are fraught with loopholes and complicated procedures and they also lack deterrent effect. Deputy President, we hope that "zero accident" and "one is too many" are not just slogans. I hope the Government can adopt more practical measures by carrying out inspections and supervisions more properly. More importantly, it should thoroughly change the present defective employees' compensation system and occupational safety and health legislation. Only in this way can the root cause of the problem be addressed and the lives and health of "wage earners" in Hong Kong protected. I hope Members will support the motion today. Thank you, Deputy President.

**Mr IP Wai-ming moved the following motion: (Translation)**

"That, in view of the frequent occurrence of industrial accidents in recent years and a number of fatal industrial accidents that happened recently, which is unfortunate for the families, this Council urges that the Government must:

- (a) comprehensively review the policy on occupational safety and health to reverse the existing policy of relying on the trades to exercise self-regulation on occupational safety and health;
- (b) step up regular monitoring and inspection of industrial establishments, impose severe penalties on law-breaking employers, and make public the items in respect of which prosecutions have been instituted by the Labour Department during inspection;
- (c) enact dedicated legislation to provide for the work procedures, safety measures and criminal liabilities for work-at-height activities, so as to reduce the occurrence of accidents involving fall of persons from height, which cause the largest number of fatal cases in the construction industry;
- (d) motivate employers to faithfully shoulder the responsibility for safeguarding employees' occupational safety and health, allocate resources for employees' training, and provide facilities and a work environment that safeguard employees' occupational safety and health;
- (e) stipulate that in the event of occurrence of accidents and occupational diseases in workplaces, including those involving subcontractors and self-employed persons, employers, contractors or persons in charge of the construction sites, etc. have to report such cases to the Government, so as to improve the reporting system for work injuries and occupational diseases, thereby enabling the authorities to obtain more accurate statistics on work injuries and occupational diseases;

- (f) comprehensively review the Employees' Compensation Ordinance, including the inclusion of mental impairment under the category of injury in Schedule 1 and the classification of repetitive strain injury as a prescribed occupational disease under Schedule 2, so as to provide more comprehensive protection for employees who suffer work-related mental disorders and physical injuries; and apart from providing employees with financial compensation, improve the mechanisms for preventing work injuries and occupational diseases as well as rehabilitation, so as to assist the recovery of injured employees and their reintegration into the society; and
- (g) set up a 'central employees' compensation fund' to centralize the management of work injuries, which is currently undertaken in a fragmented manner, to provide employees with a comprehensive compensation system."

**MR LEE CHEUK-YAN** (in Cantonese): Deputy President, I move that Mr IP Wai-ming's motion be amended.

Deputy President, today's motion on occupational safety and health actually reminds me of Chris PATTEN. Why? I once listened to Chris PATTEN's speech and found that I did not know one word used by him, and it was carnage. He said, "We have to stop industrial carnage". That was a very long time ago, and I remembered that it was 1995. But what is the situation today? The number of occupational casualties remains high. Of course, the Government would later tell us that the number has dropped, but there were 165 cases of job-related death and 29 414 cases of work injuries in 2009, and the total number of cases was almost 40 000. About the casualty rate, 15 persons are injured per 1 000 people each year.

Come to think about this. The number is really astonishing for there were 165 fatal cases. Although the Government would later report that the number is decreasing, we must consider whether it is because of improved occupational safety and health or the construction industry has not yet reached the peak works execution period. In fact, the Government has already sounded the alarm. In a paper on occupational safety published by the Government recently, despite the absence of numbers, it is stated that the surge in fatal accidents in the construction

industry since September 2009 has aroused concern. As it is stated in the Government's paper that the situation has aroused concern, it definitely warrants attention and I simply think that the Government has sounded the alarm.

If our economy starts recovering and the construction industry undertakes more and more projects, will the casualties in the industry also surge continuously? The so-called reduced numbers of cases is actually a false impression; it is simply the result of the adverse economic situation but not improved occupational safety and health. Why is there such a problem? In my view, the reason is very simple; it is because Hong Kong as a whole pursues speed. Speed means money, and workers' safety and health are sacrificed for the sake of profits. Working for workers' safety and health takes time and will slow down the speed, thus workers' safety and health have always been sacrificed for speed. In order to solve this problem, we must step up monitoring and assure that employers have taken all the safety and health measures.

Secondly, if employers have not taken adequate safety and health measures, the costs will certainly become higher. At present, even if there are casualties, employers only need to make compensations and there are also compensations covered by insurance; if the worst comes to the worst, only higher premiums will have to be paid. Criminal prosecution in connection with occupational safety and health is just a trivial matter. Employers will not incur any costs in that case. In the hope of accelerating the projects and obtaining greater profits, employers will certainly choose to sacrifice safety and health. We definitely do not want that to happen.

Therefore, Deputy President, I have proposed a few items in my amendment today. The most important item is the concept of pay for safety. What does it mean? In fact, it is currently specified that 2% should be allocated for safety and health on a government construction site. In other words, 2% of the project estimate of a construction site has been put aside for safety and health. Nevertheless, the same is not required of private construction sites. For this reason, I propose enacting legislation to the effect that 2% of the project estimates of private construction sites and private developers shall be put aside for assuring safety and health.

I have also suggested that developers should take responsibility as it is also imperative for developers to do so. How? At present, the contractors take

responsibility for all safety and health problems, so they have the greatest motivation and incentive. If developers have to bear criminal liability, I believe they will attach greater importance to workers' safety and health. Thus, the Hong Kong Confederation of Trade Unions advocates that developers should take responsibility and we also advocate paying for safety. I hope Honourable colleagues would render support as it is a very important part of my amendment.

On the other hand, the Government talks about self-regulation very often, but we hope that it would not have blind faith in self-regulation. It is most important for it to continue to carry out inspections and prosecutions, and to perfect the legislation so that all projects will meet certain safety standards instead of merely relying on "general duties" and not setting safety standards for each and every construction item.

In my opinion, it is more important to seriously punish offending employers. In an accident in 2008, an odd-job worker on a construction site was crushed to death by a corrugated steel plate that had fallen from height. How much was the penalty? It was just \$17,000. With the maximum penalty being \$500,000, does \$17,000 carry any weight? It is only 3% of the maximum penalty. That is why I always say that all Honourable Members should give the High Court a "dog-head guillotine" in order to achieve deterrent effect. Otherwise, a \$17,000 penalty will just be considered as tickling. Thus, in relation to any extremely light punishment, the Government should lodge an appeal and request more serious punishment. Although we cannot intervene in the decisions of the Court, we should let the Court know that the community has higher expectations nowadays.

Deputy President, I also suggest designating a Work Injury Memorial Day and erecting monuments at prominent places. The Secretary will later on tell us that there is already a monument at the Science Museum. I am not sure if Honourable colleagues know that there is such a monument. I would like to ask the Secretary to put the monument at a prominent place at the Science Museum. There is a very beautiful sculpture on Nathan Road, why can the monument not be erected at a prominent place to really commemorate the sacrifice made by workers for the prosperity of Hong Kong?

Deputy President, I have talked about safety just now, and I would like to talk about compensation next. I hope that the amount of statutory compensation would be substantially increased. We have heard about "three, five, seven" for

job-related death and "four, six, eight" for 100% work injury. What do "three, five, seven" and "four, six, eight" refer to? They refer to the number of years. If a worker dies as a result of an accident in the course of employment, the amount of compensation will just be seven years' earnings at the most. What will happen after that? Will his family members have to apply for CSSA? If his children have not yet grown up, how many years will pass by before they reach the age of 18 and become adults? Yet, the "three, five, seven" and "four, six, eight" pattern has been in force for dozens of years. I doubt if that was already the case in 1953 — we may verify that later — no progress has been made so far since that specification was made. Can the compensation be substantially increased? For instance, "four, six, eight" should at least become "six, eight, 10", and I wonder if "three, five, seven" can become "five, seven, nine".

Another most unreasonable fact is that an employees' monthly income for calculating the amount of compensation is currently capped at \$21,000. In other words, even if an employee's income is \$30,000, the income for calculating the amount of compensation is still capped at \$21,000. Also, even if an employee's income is \$40,000, the income for calculating the amount of compensation is still capped at \$21,000. This provision has remained unchanged for the past 10 years. Why can the amount not be raised? If an engineer dies or becomes injured as a result of an accident on a construction site, and the income for calculating the amount of compensation is still capped at \$21,000, it is really very unfair to him.

It is also very unfair that the funeral expenses are only \$35,000 at present. I once attempted to revise the amount to \$50,000, but I failed. I would like to ask Honourable colleagues how much a columbarium niche costs. The cheapest one costs \$50,000. Why do the funeral expenses remain at \$35,000? Why can they not be increased to \$70,000 at the least?

Deputy President, I have many other suggestions, and I would like to explain the point about self-employed persons. An Honourable colleague has asked me if it is feasible to include self-employed persons in the scope of employees sustaining work injuries. First, some self-employed persons are not genuinely self-employed. Second, even if they are genuinely self-employed, they only have a single employer. For example, a mixer truck company has more than 100 self-employed vehicle owners cum drivers, but all of them are serving one single company. For this reason, I would like to include all single

employers in ..... For instance, for a certain period of time, it was reported that all employees for McDonald's delivery services were self-employed, and they should be included in the scope of employees who sustained work injuries. Furthermore, I suggest the inclusion of all employees who sustained injuries when travelling to and from work under the coverage of the Ordinance.

Lastly, with 15 seconds left, I would like to say that the Hospital Authority (HA) is considering introducing an occupational rehabilitation programme for all industrial accident patients but it has not yet done so. I really hope that the HA will implement an occupational rehabilitation programme for all industrial accident patients as soon as possible. *(The buzzer sounded)* ..... Thank you, Deputy President.

**Mr LEE Cheuk-yan moved the following amendment: (Translation)**

"To delete "in view of" after "That," and substitute with "given"; to delete "recent years" after "industrial accidents in" and substitute with "Hong Kong over the years"; to add "and amend" after "(a) comprehensively review"; to delete "to reverse the existing policy of relying on the trades to exercise self-regulation on occupational safety and health" after "policy on occupational safety and health" and substitute with ", and the amendments to be made to the relevant policy include increasing the penalties imposed on law-breaking employers, requiring developers to take responsibility for works safety at construction sites, requiring developers to designate a certain percentage of the works cost as the 'works safety cost', tightening the safety standard stipulated in existing relevant legislation, and formulating a comprehensive policy on safety and health education, etc."; to delete "items" after "make public the" and substitute with "list of employers"; to delete "which" after "in respect of" and substitute with "whom"; to add "and those who are convicted" after "during inspection"; to add "a substantial increase of the statutory amount of compensation, a substantial increase of the employees' monthly income for calculating the amount of compensation, which is currently capped at \$21,000, the inclusion of self-employed persons and all employees who sustain injuries when travelling to and from work under the coverage of the Ordinance," after "Employees' Compensation Ordinance, including"; to add "back pain and" after "classification of"; to delete "a" after "repetitive strain injury as"; to delete "disease" after "prescribed

occupational" and substitute with "diseases"; to add "including the establishment of a 'rehabilitation hospital for injuries and diseases caused by occupational accidents' to provide specialized medical and rehabilitation services to those sustaining injuries and diseases caused by occupational accidents," after "rehabilitation,"; to delete "and" after "society,"; and to add "; and (h) designate 28 April as the Work Injury Memorial Day and erect monuments, commemorative installations or plaques at prominent places in urban areas to commemorate the contribution of victims of occupational injuries to the prosperity of Hong Kong" immediately before the full stop."

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

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr IP Wai-ming be passed. Mr LEE Cheuk-yan has already moved an amendment to this motion.

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Mr IP Wai-ming's motion, be passed. This Council will now proceed to a joint debate on the motion and the amendment.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I am grateful to Mr IP Wai-ming for proposing the motion debate on "Reviewing occupational safety and health and employees' compensation system", and Mr LEE Cheuk-yan for his amendment to the motion.

The Government attaches great importance to the occupational safety and health of employees as well as compensation for employees who are injured or died at work.

With respect to occupational safety and health, the Labour Department (LD) is committed to taking a multi-pronged approach of legislation and enforcement, publicity and promotion, and education and training. We will spare no efforts in promoting the protection of safety and health of the working



population. We will review the relevant policies and work from time to time in the hope that they will keep abreast of the times and offer the best and most effective protection to the occupational safety and health of employees.

In the original motion of Mr IP Wai-ming, one of the requests is to ask the Government to change the present practice of requiring employers to shoulder the responsibility for safeguarding employees' occupational safety and health. I wish to explain the idea of "self-regulation" first and the role played by this idea in government policy and laws and regulations regarding occupational safety and health. Then I will briefly explain the government position regarding the main ideas raised in the motion.

Previously we worked through the Factories and Industrial Undertakings Ordinance to stipulate in detail the minimum safety standards for compliance by both employers and employees, and a prescriptive approach was taken to regulate in a specific manner and provide guides to individual trade and industries, on work procedures or equipment which might put occupational safety and health at risk.

As society changes and technology sees constant upgrading, new production technologies, raw materials and even equipment and facilities are introduced, laws are found unable to fully reflect the latest developments and needs and they may not be applicable to the complicated and vastly different work environments, job types and work procedures. Moreover, laws are found unable to cope with new kinds of occupational risks brought about by developments in science and technology, hence they may become outdated.

This idea of self-regulation is to ensure that the responsibility of occupational safety and health in the workplace should be shouldered by those who produce such risks and those who have to face such risks in the course of their work, that is, employers and employees, such that the goals of occupational safety and health can be effectively achieved. Under this principle of self-regulation, employers are still bound by the various provisions in law, which is a very important point. Such provisions include those applicable to the environment of the workplaces, job types and work procedures. However, at the same time, employers need to protect employees by adopting effective systems and measures to address the unique conditions and hazards in the workplaces.

Many advanced countries have migrated from prescriptive occupational safety and health laws to a target-oriented mode of regulation in this regard.

In view of the considerations mentioned by me just now, general duties provisions were introduced to the Factories and Industrial Undertaking Ordinance in 1989. The Occupational Safety and Health Ordinance enacted in 1997 also have similar provisions which state that every employer must, so far as reasonably practicable, ensure the safety and health of all the employer's employees at work. This includes the provision of safe workplaces, plant and systems of work and such instruction, training and supervision. Unlike prescriptive regulations, these general duties provisions only list employers' responsibilities broadly and require that they should assess the risks in the workplace and formulate such safety measures as appropriate. On the other hand, the LD has also published relevant codes of practice and guidelines to help employers discharge their general duties.

Besides being obliged to observe the general duties, employers and employees shall also obey laws and subsidiary regulations on occupational safety and health. As the enforcement agency of occupational safety and health laws, the LD when inspecting the workplaces will oversee compliance by duty holders and enforce the laws rigorously.

In addition, the Government undertook a comprehensive review of the industrial safety policy in Hong Kong in 1995 and confirmed that on the existing basis in law, it should further promote the responsibility of enterprises in self-regulation and suggested that certain high-risk trades should be required to implement a safety management system. In a bid to further improve the legal framework for self-regulation, the LD enacted the Factories and Industrial Undertakings (Safety Management) Regulation in 1999.

However, "self-regulation" does not mean that full reliance is placed on the trades complying with the occupational safety and health policy or employers are not subject to any form of regulation, a point that must be noted with significance. In fact, our experience shows that through the collaboration of various stakeholders such as the Government, employers, employees, the Occupational Safety and Health Council and various trade bodies and labour organizations, the occupational safety and health situation in Hong Kong has actually been improving continuously and markedly. In the past decade, for example, injuries

and deaths at work figures have dropped from 58 092 cases in the year 2000 to 39 579 cases in 2009. The drop is 31.9%. The work injury and fatality rate per 1 000 employees has dropped from 23.3 to 15.0, or a rate of 35.6%. With respect to industrial accidents, there is a drop from some 33 600 cases in 2000 to 13 600 in 2009. The drop is as great as 59.6%. The accident rate per 1 000 workers has also dropped from 51.7 to 24.6, or a drop of 52.4%. In the high-risk construction sector, there has been marked improvement in the safety performance and industrial accident figures and the accident rate per 1 000 workers has fallen from 11 925 cases and 149.8 in 2000 to 2 755 and 54.6 in 2009 respectively, and the rates of decrease are as great as 76.9% and 63.6%.

Mr LEE Cheuk-yan suggested earlier that it might be due to the economic downturn that workers were out of work and so these figures had fallen. But that is really a misunderstanding. We have a reliable figure and that is the accident rate per 1 000 workers. This is a figure recognized by the International Labour Organization (ILO). This figure of accident rate per 1 000 workers is the most objective figure, and it can demonstrate an objective standard which is applicable at all times, regardless of the state of the economic cycle or whether workers are employed or whether there are works projects in progress. So it can be said that such figures are both objective and accurate.

The figures mentioned just now show that the occupational safety and health policy in Hong Kong, including the legal framework that combines self-regulation and prescriptive provisions, is generally effective. However, we will not be self-complacent and we will strive for betterment and undertake reviews on a regular basis.

With respect to law enforcement, the conduct of enforcement inspections is important to the implementation of our policy objectives. The LD attaches great importance to inspecting workplaces. Apart from conducting blitz inspections, we will also inspect various districts regularly. We will visit new workplaces and investigate accidents at work and complaints about unsafe work. We will take special enforcement action and enforce the law strictly on employers who have acted in blatant disregard of their occupational safety and health responsibilities, by *inter alia*, issuing improvement notices and suspension notices to them. This will ensure cases of non-compliance are improved and rectified as soon as possible, or that imminent dangers that may cause injuries or deaths are speedily removed. We may even institute prosecutions. During the

past three years the LD has been committed to carrying out enforcement action with vigour. On average we carried out more than 110 000 inspections and issue 1 300 improvement notices and 160 suspension notices, and about 1 900 prosecutions were instituted. I wish to emphasize that these suspension notices are often our most effective weapon. This is because once work is suspended on a construction site, all the work procedures are stopped and great losses are incurred. So at times, this is more effective than prosecution since once work is stopped, all the construction works will come to a halt. This is therefore a very stiff penalty.

Work at height is a cause of concern to Members. Now the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance and their subsidiary regulations have a comprehensive range of provisions in place. These include the Construction Sites (Safety) Regulation, Factories and Industrial Undertakings (Suspended Working Platforms) Regulations, and the Factories and Industrial Undertakings (Cargo and Container Handling) Regulations, and so on, in which Members are very much well-versed. These regulations have listed in detail the safety requirements that must be met with respect to work at height on construction sites and using gondolas as well as in the handling of containers, and so on.

In addition, the so-called general duties provisions in the Factories and Industrial Undertakings Ordinance and the Occupational Safety and Health Ordinance have stipulated that employers are obliged to safeguard the occupational safety and health of employees. The laws which I have just mentioned have provided an integrated legal framework to offer full protection to the safety and health of employees working at height on construction sites and in other workplaces.

The LD is also working through various channels and tactics to urge employers to provide safety equipment and improve the work environment. This includes various subsidy schemes launched in collaboration with the Occupational Safety and Health Council. These schemes provide technical support and financial subsidies to the small and medium enterprises (SMEs), especially small contractors, so that employers can provide safety equipment to their employees and improve the work environment. We also offer free training,

such that small contractors can encourage their staff to attend such courses to equip themselves or to take some relevant examinations.

Proper training plays an instrumental part in improving employee's knowledge of occupational safety and health, hence internalizing their awareness of and respect for a safety culture and changing unsafe practices at work. The current occupational safety and health laws also include many requirements on safety training. When carrying out enforcement action, the LD will check if employers have ensured that their workers have received recognized training in safety and obtained the relevant certificates issued by training institutions approved by the LD. Besides, under the general duties provisions, the employers are obliged to provide such information, instruction, training and supervision as may be necessary to safeguard the safety and health of their employees at work.

With respect to the proposal made by Mr LEE Cheuk-yan in his amendment to tighten the safety standards in the current legislation, making the penalties stiffer for law-breaking employers and making public the list of employers who have been convicted, I would like to make use of this opportunity to say that the LD will review the safety standards and penalties in the occupational safety and health laws in the light of factors like the changing social conditions, economic developments and trends in industrial accidents to see if they are appropriate. We will also keep a close watch on penalties meted out by the Courts in respect of each contravention case to consider if certain follow-up action is required. In addition, as cases involving the violation of occupational safety and health laws are heard in public in the Courts, this is in effect making public the conviction details of the employers concerned. And the LD will also issue press releases on serious cases convicted by the Courts. In view of the reasons which I have given, we do not intend to make public the list of employers convicted through other channels.

The amendment also raises the point that developers should be required to take more responsibility for works safety on construction sites and to designate a certain percentage of the works cost for works safety expenses. In fact, both the Government and the Construction Industry Council are now collaborating to encourage the sector to practise construction design and management so as to get all parties involved in the works including the developers to work together to

improve works safety. With respect to designating a certain percentage of the works cost for works safety expenses, apart from what is known as the Pay for Safety Scheme in public works and public housing works, some of the private developers have also implemented a similar scheme at their own initiative. The LD has been providing full support and encouragement in this regard.

The ILO designates 28 April of each year as World Occupational Safety and Health Day to raise concern in the international community for the building and fostering of an occupational safety and health culture. The Government agrees with the convictions of the ILO and we have since 2005, organized in collaboration with the Occupational Safety and Health Council promotional activities on this on 28 April every year. These activities are meant to enhance public concern for occupational safety and health. As mentioned by Mr LEE Cheuk-yan earlier, we erected a memory plaque in the occupational safety and health gallery in the Hong Kong Science Museum on 28 April 2005 to pay tribute to Hong Kong workers who died or were injured in work accidents all through the years.

With respect to reporting cases of occupational diseases, as the Employees Compensation Ordinance (ECO) is aimed at offering protection to employees and the basis for implementing this Ordinance lies in the legal obligation of individual employers, now the requirements for reporting work injuries and occupational diseases only apply to employees. However, the LD and the police and also the Fire Services Department (FSD) have set up an accident reporting system. Should a serious occupational accident or one which involves death happen, the police and the FSD will inform the LD immediately. Regardless of whether the accident involves employees or self-employed persons, the LD will conduct an investigation and take follow-up action as appropriate. So the Government has a full picture of work injuries and occupational diseases.

As for the coverage of the ECO, now section 5 of the ECO stipulates that an employer is liable to pay compensation in accordance with the ECO when an employee is injured at work in the course of employment, notwithstanding the mistake made or negligence on the part of the employee concerned.

Besides, if any injury is sustained by an employee after the work accident — I would like to stress that irrespective of any physical injury, damage to the functions of any body organ or mental trauma — according to the existing provisions, if there is sufficient proof that such injury is related to the accident and will cause partial or permanent incapacity, this will be considered in working out the compensation for that employee concerned.

With respect to occupational diseases, the ECO lists 48 kinds of occupational diseases under protection. If an employee is employed to engage in a certain kind of work immediately before the prescribed period leading to his partial or permanent incapacity and suffers from such listed occupational diseases because of the particular nature of the work, the employee can receive the same kind of compensation as given to an employee injured at work in an accident.

As defined by the ILO, an occupational disease is one that bears an obvious or strong relationship with the occupation concerned and as a general rule, only one cause for incidence is involved and it is commonly recognized as a cause for incidence. The LD always makes reference to the criteria laid down by the ILO and only diseases which have been classified as occupational diseases are considered as such after taking into account factors like the incidence pattern of local diseases.

Medical conditions like diseases involving muscles and bones such as back pains, neck and shoulder pains and pains in the upper part of the body as well as the ageing of the knee joints are caused by a number of interacting factors such as overweight, lack of physical exercise, physical overexertion, wrong posture or repetitive actions, as well as worsening of body functions owing to age, or fixed postures like sitting or standing for long periods of time. So this is a very common problem which is not limited to employees of certain specific trades. Hence we consider that such health problems do not meet the requirements of occupational diseases as defined.

However, having considered the incidence pattern of local diseases and other related factors, the LD has included six muscles and bones diseases in the list of occupational diseases under Schedule 2 of the ECO. These six diseases all owe their origins mainly to the risk factors related to certain specific

workplaces and are proved by epidemiological studies to bear an obvious causal relationship with certain specific occupations.

Section 36(1) of the ECO provides that even if the disease suffered by an employee is not listed in the ECO, provided that the employee concerned can prove that given his specific circumstances, such injury arises out of and in the course of his employment, he can lodge a claim for compensation. This is an important point to note.

As for rehabilitation services, hospitals and clinics under the Hospital Authority (HA) provide a full range of medical and rehabilitative services to the public, including specialist physiotherapy and occupation rehabilitation services. Employees may receive such medical and rehabilitation services irrespective of the partial or permanent injury sustained. The HA will keep the services in review and strive to improve them so that injured employees can recover early and rejoin society.

As for the suggestion on establishing a rehabilitation hospital for injuries and diseases caused by occupational accidents to provide specialized medical and rehabilitation services, I wish to point out that hospitals and clinics under the HA are located in various districts of Hong Kong and they have specialist departments providing comprehensive and proper medical and rehabilitation services to members of the public or injured employees in their neighbourhood.

The amendment also proposes to effect a substantial increase of the amount of compensation. I wish to point out that the compensation amounts under the ECO including the employees' monthly income ceiling are all governed by an established mechanism whereby a review is made every two years. Adjustments will be made in the light of changes in wage, price and other related factors. In fact, the statutory compensation concerned is paid out regardless of who is at fault and so in determining the liability of the employers, a reasonable balance has to be struck between the rights of employees and the affordability of employers. In addition, if the injury sustained by an employee arises out of negligence on the part of the employer or the violation of legal responsibilities by the employer, the employee is entitled to pursue damages in common law.



The amendment also points out that self-employed persons and all employees who sustain injuries when travelling to and from work should be protected under the ECO. I wish to explain that the purpose of the Ordinance is to protect employees who sustain injury at work or suffer specified occupational diseases, so that they can claim compensation from their employers. An employer cannot hope to evade his obligation by classifying an employee as a self-employed person. If an employer hopes to change the status of his employee into a self-employed person by entering into a contractor agreement with his employee, but in actual fact still maintains an employment relationship with him, the employer is still obliged to fulfil his responsibilities under the ECO, including the payment of compensation to employees injured at work and to take out employees' compensation insurance as required by the law.

Moreover, the existing ECO has provided clearly that, insofar as the provision of employees' compensation protection to employees travelling to and from work is concerned, the basic principle to observe is that the employer is to be held responsible for circumstances related to the work in question and circumstances over which he can exercise control. Examples are when the means of transport used by the employee is provided by the employer or arranged by him. Other circumstances involving greater danger are also included in the coverage of the ECO, such as when employees travel to and from work when Typhoon Warning Signal No. 8 or above is hoisted or when the Red or Black Rainstorm Warning is effective. As Members all know, employees are under full protection in these circumstances.

The original motion by Mr IP Wai-ming proposes to set up a central employees' compensation fund. The existing employees' compensation system is based mainly on the ECO, that is, individual employers shall be responsible. An employer must act according to the law and take out employees' compensation insurance with an authorized insurance company to ensure that the employer has the means to pay the compensation to employees injured at work as stipulated in the ECO and also the compensation awarded by a Court of law in common law. Part IV of the ECO on compulsory insurance is a full realization of this policy. The provisions concerned have been in force since 1984. In this respect, private sector insurers in the employees' compensation market have played an important

role and the system has been operating well. Hence we hold that the present mode of operation should not be changed.

All in all, the present occupational safety and health system as well as the employees' compensation system are able to offer full and proper protection to employees after the improvements made over the years. However, we will conduct reviews from time to time in response to the constant changes in society and the pace of economic development. This will enable us to keep abreast of the times.

I expect to hear from Members their valuable views on the motion and, after that, I will make a response in conclusion at the end of the debate.

Thank you, Deputy President.

**MS LI FUNG-YING** (in Cantonese): Deputy President, today's motion is another motion debate relating to the safety and health of employees after the motion moved by me on "Protecting the safety and health of employees at work in inclement weather" in Legislative Council last week. I consider the speech delivered by Secretary Matthew CHEUNG on the motion last week and his position on it may give food to our further discussion on today's subject.

Item (a) of today's original motion which states that "comprehensively review the policy on occupational safety and health to reverse the existing policy of relying on the trades to exercise self-regulation on occupational safety and health" is largely consistent with the goal of the motion I moved last week. However, no matter in Secretary Matthew CHEUNG's response to last week's motion or his response just now, we have heard very clearly that he has stated the Government's position categorically: it will only encourage employers to make appropriate arrangements, that is, it will not change the current occupational safety and health policy which gives employers a free hand each doing things in his own way.

I believe individual employers who have conscience will look after the safety of employees, prepared to comply with the Labour Department's guidelines by making appropriate work arrangements for their staff. However, for other employers who have little regard the safety of employees, what can we do?

Should we turn a blind eye to the irresponsible behaviour of other employers simply because some scrupulous employers are ready to take responsibility, and thereby put the lives of workers at risk? We only need to take a look at the failure of the implementation of the Wage Protection Movement to realize that if there is no specific legislation to regulate the matter and if we give employers a free hand to each doing things in his own way, we cannot protect the industrial safety and health of our workers, which is exactly the same as we cannot guarantee workers can earn a minimum wage if we do not legislate on the same. This is the most simple truth.

Deputy President, the summer has just begun in Hong Kong, days of typhoon and rainstorm warnings, very hot weather warnings and high Air Pollution Index (API) will increase, and we do not want to see industrial accidents. However, hope alone is not enough, we need to devise effective measures to make our hopes stand any chance of materializing. We have already proposed measures to realize these "hopes", but regrettably, the Secretary refused to implement our proposal last week. I hope Secretary Matthew CHEUNG will not turn us down today. I wish to remind the Secretary that before the Labour and Welfare Bureau changes its attitude, he should pray to the gods that no workers will suffer a heat stroke in the very hot weather; no industrial accident occurs in days of high API; and no industrial accidents under the typhoon and rainstorm warnings as workers are forced to work under such circumstances, otherwise, the Secretary will also be held responsible for that.

Deputy President, in principle, I support the proposal of stepping up the inspection of industrial establishments and prosecuting law-breaking employers. However, I am worried that if the demand of stepping up inspection and prosecution, which is considered a universal truth, cannot address the specific issues, it will only allow bureaucrats to use information and data to stall the issue. Just like the responses given by Secretary last week or just now, he was just citing the figures of inspections, warnings and prosecutions made as if he was enumerating his family valuables, but he has never touched upon the core issue of the protection of employees, including the safety and health of people working in inclement weather for the purpose of conducting a meaningful debate.

As to occupational safety and health, prevention before incidence is always better than remedies. Remedial measures shall cover two areas, the first one is the coverage of occupational diseases, and the second one is the workers'

compensation system after the occurrence of industrial accidents. As for the former, the coverage of occupational diseases must be made to keep abreast of the times, such as heat stroke in hot weather, hearing impairment of paging company employees who often need to use headphones at work, as well as employees suffering from varicosity due to long hours of standing at work, and so on. They should be included in the scope of compensation for occupational diseases.

With regard to the employee compensation system, I would like to point out the Voluntary Rehabilitation Programme (VRP) in particular. The VRP is a well-intended programme; its original design is to encourage employees injured at work to return to the workplace and do some less demanding jobs, which is conducive to the rehabilitation of these employees as well as enabling them to adapt to the work again. However, I have also received some complaints that when employees received rehabilitation treatments arranged by insurance companies, they were coerced or lured by gain to accept the compensations. As these employees were constantly under pressure, they eventually agreed to the propositions of insurance companies and therefore lost the right to seek further compensations.

Deputy President, another issue relating to employee insurance is that some workers reported that there was a coverage vacuum in construction sites work because it would take seven days for the insurance company to complete the insurance formalities before the insurance could take effect. However, some workers will be working in different sites one after the other, but the insurance arrangements could not tie in, thus the trade called it a "vacuum" period. This is not only inconsistent with the existing labour legislation, if an accident involving injury at work occurs unfortunately, the relevant employees will enjoy no protection at all. Therefore, I also support the establishment of a central employee compensation scheme as it would improve the existing compensation system. Thank you, Deputy President.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, I speak in support of the original motion and the amendment. I have been listening carefully to the Secretary, who said that it would be reviewed from time to time. But I have risen to speak out of the hope that the Secretary will speak in response that a timely and comprehensive review will be conducted. Surely, the Secretary will not be able to deliver in the current Legislative Session, so I hope

he will submit to the Legislative Council papers on a comprehensive review of occupational safety and health and employee compensation in the next Session. I urge the Secretary not to evade my request, will he table papers concerning a comprehensive review in the next Session?

Deputy President, I have just watched a news report about a recent injury case at a laundry factory. Today, the Court urged the Government to establish a licensing system and step up inspections. If it is just like what the Secretary has said just now, that it is already a very comprehensive and advanced system, then no review is needed. Therefore, I hope a comprehensive review will be conducted.

Deputy President, first of all, a survey conducted by the FTU's Occupational Safety & Health Committee in 2007 found several phenomena which showed that the existing system was plagued with problems. First, the survey found that 35% of the employers did not follow the law to report to the LD cases of work injuries and occupational diseases. In view of such a large proportion, has the Government really done some soul-searching? Second, the survey found a quarter of the employers had failed to pay on time the wages to employees who were on sick leave arising from a work injury, and in some cases, the payments were even delayed from one year to five years, and injured workers have to apply for CSSA or to live on borrowings. These employers did not make payments to their employees in accordance with the law, which was equivalent to arrears of wages, why was the Government so reluctant to make some more efforts? Third, the survey also found that most employers did not pay the employees who were on sick leave arising from a work injury the wages payable in accordance with statutory requirements, which had frequently caused different degrees of financial impacts to employees. In this connection, the Government has no reason to ignore the circumstances and not to conduct a review. Fourth, even when employers fail to pay the employees who were on sick leave arising from a work injury wages payable in accordance with statutory requirements, the Government rarely prosecutes them; at most they are issued warning letters. Will the Secretary tell me whether the Government has initiated prosecutions over the past five years? What is the number of prosecutions? Why has it not instituted prosecutions? Why does it rarely initiate prosecutions? I hope the Secretary can explain that. The 2007 survey of the FTU found these four kinds of conditions, which prove that a comprehensive review should be carried out, and it should be conducted in a timely manner, not as the Secretary

said, that it is under review from time to time. I do not know when it will be conducted if it is carried out "from time to time".

Second, Deputy President, what I have to say is that it is very difficult to apply for Disability Allowance because of work injury and incapacity resulting from such, and it is rather unreasonable. For example, there is a case for which leave has been granted by the Court for a judicial review, so I cannot disclose the merits. This case shows that there are a lot of hurdles in the current application procedure for Disability Allowance, for apart from a doctor from the Hospital Authority alone, no medical social workers are involved in the assessment and this is unreasonable. Furthermore, according to the requirements, the applicant will be considered 100% disabled only if he has lost two of his limbs. So even if one has lost a leg does not meet the requirement, for he should have lost both legs, or else he should have lost an arm, otherwise he is not eligible for the Disability Allowance. How can there be such an unreasonable requirement? Will the Secretary answer later in this Chamber why losing a leg is not considered a disability? If the Secretary explains it, I will not further pursue. I wish him to answer direct whether two lost limbs can be considered incapacity and eligible for the Disability Allowance? This is the second aspect.

The third is related to occupational strain. I have accompanied many workers to negotiate with the Bureau, meeting with the officials sitting next to the Secretary. Those cases that involved lumbar muscles strain and musculo-skeletal injury actually reflected numerous aspects of the service industry, such as routine labouring and actions of workers as they often cause a lot of strain, but they are not classified as occupational diseases at present. We have made enquiries with the Secretary, but he said no statistics had been collated in the past. May I ask the Secretary to reply, since we met with him about a year ago, whether any statistics have been collated so far? I wish him to answer if any statistics are available? Will a comprehensive review be conducted after the statistics are collated? He used to say that because there were no statistics, therefore there was no review, but about a year ago, he promised to collate the statistics. Has he done that? I hope he will give a direct response and not to give us some fancy answers.

Finally, Deputy President, I would also like to talk about the safety on construction sites, in which a very important role is played by the occupational safety officer. I have been negotiating with the Bureau all along, with respect to

the current appointment system of occupational safety officers, that is, the officers are employed by the site developer or the contractor of the site. They employ the occupational safety officers to supervise themselves, and this practice alone will involve a conflict of their own interests and their roles. If the occupational safety officer concerned is impartial, he would certainly be sacked. Therefore, I suggest that the Government should consider requiring the costs of employing occupational safety officers be borne by the tenant developer or contractor of the site, but the money should be handed over to the Government which would then appoint the safety officers direct. In that case, he will be directly responsible to the LD and the labour authorities, thus truly playing a supervisory role. Is the Government prepared to review the current system? The Government has been repeatedly saying that it would be considered, but it has been proposed by me for nearly two years, what is the result of the Government's consideration?

Deputy President, I have just mentioned four major aspects, there are many details aspects in each aspect, all requiring the Government's timely review. Therefore, if the Secretary can inform me that a comprehensive review will be conducted in the next Legislative Session, I think the Government will be doing a great service. Otherwise, I will consider that the Government treats the injured and disabled wage earners ..... *(The buzzer sounded)* .....

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

**MR WONG KWOK-HING** (in Cantonese): ..... most unfairly still.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, Secretary Matthew CHEUNG thanked Mr IP Wai-ming just now for proposing this motion debate today and he said that it was great for us to discuss this topic. I would like to tell the Secretary that it is certainly great for us to discuss this topic again, but I am not going to thank him from another point of view. Why? For we have such discussions simply because work injuries have occurred. What do we really hope to achieve? We hope that there will no longer be work injuries and that we need not have discussions, right? In this context, I am not going to thank Mr IP Wai-ming, and I do not want to discuss this issue anymore. Deputy

President, every wage earner hopes that he can go to work happily and return home safely. Unfortunately, however, work injuries still occur nowadays. The Secretary said in response to Mr LEE Cheuk-yan's remarks that the number of work injuries had kept dropping, in particular, the number of work injuries had dropped not because workers did not have work and the economic situation was adverse; the number of accidents per 1 000 workers has really dropped.

Deputy President, I agree with the Secretary. If we count the number of such cases for the past 10 years, that is, from 1999 till now, there were around 58 000-plus work injuries of various scales a year in 1999, however, there were approximately 40 000-plus work injuries a year in 2008 or 2009, that is, the number of cases decreased by more than 10 000. Deputy President, the number has really dropped, but there are still tens of thousands of work injury cases each year. We cannot overlook these numbers and we cannot say that the number has now become smaller. Nevertheless, if the numbers of work injury cases are added together, we find that tens of thousands of workers have sustained work injuries in the past 10 years or so, which was a significant number.

Moreover, taking into account the number of work injury cases per 1 000 workers, I wonder if the Secretary has carefully analysed again the causes of injuries suffered by workers. Have they sustained work injuries because they have worked overtime, hurried to finish their work or there were inadequate facilities for work safety? I cannot say that the Secretary is complacent with himself, but I do not think he has given Mr LEE Cheuk-yan a good answer. Even though there is only one accident, the Secretary for Labour and Welfare should not be pleased, and he should strive to achieve a zero accident rate. For this reason, I hope there would be very good strategies and measures to achieve a zero work injury rate.

As I have just said, it is the wish of every worker to go to work happily and return home safely, but it is a great pity that several accidents took place precisely when workers were travelling to and from work; yet, these workers have not been given work injury compensations. I think the Government really needs to consider this. In the Ting Kau Bridge accident a few years ago and the Lok Ma Chau accident this year, some workers died in accidents when they were



travelling to and from work. We are sorry that they were not given work injury compensations. Thus, I hope the Secretary will conduct a review.

When a worker who was the breadwinner of his family unfortunately died because of work injury, his families would definitely be greatly affected and they would encounter serious problems insofar as living expenses were concerned. Funeral expenses are often tough problems to be solved by surviving dependants. Although funeral expenses as part of compensations for death are \$35,000 at present, we all know that the costs of columbarium niches have been rising at an astonishing rate. Though the dependants really want to buy columbarium niches for the deceased workers, how can they afford the exorbitant costs? Which expenses can they meet with \$35,000? When I discussed this problem with Mr LEE Cheuk-yan, he said that a compensation of \$100,000 was just about right. Nevertheless, according to the Association for the Rights of Industrial Accident Victims — the Association has given the Secretary some information and proposed a compensation of \$70,000. Even if the compensation amount is less than \$100,000 as suggested by Mr LEE Cheuk-yan, I hope it will at least be \$70,000 as it will then be able to allay the worries of dependants about funeral matters and help them overcome difficulties. I hope the Secretary will take this into consideration.

Furthermore, Mr LEE Cheuk-yan also mentioned the question of income just now. The current Employment Ordinance has lifted the salary ceiling, so all employees are protected under the Employment Ordinance. Yet, why is employees' monthly income for calculating the amount of compensation capped at \$21,000 only? Why has the Government not brought this ceiling in keeping with the times? Why has it not removed this ceiling? As a matter of fact, when employees sustain work injuries, they should be given compensations regardless of their salaries; and this makes sense to me.

Now, payments for work injury sick leave have increased from two thirds in the past to four fifths, but this has been the practice for almost 10 years already, and I wonder if the provision on payments at the rate of four fifths should also be abolished so that workers who sustained work injuries would be given full compensations. They still need to pay for medical consultation afterwards. Should a review be conducted of this as well?

Lastly, I would like to discuss a central employees' compensation fund. It is most imperative to set up such a fund as we find that many workers have now been forced to become self-employed. That means they will not get any compensations when they sustain work injuries, so they are really pitiable. Unless they have sustained work injuries or die, they will not be given compensations and they cannot overcome financial difficulties. Hence, setting up a central employees' compensation fund is the only solution. I hope that such a fund will be set up as quickly as possible in order to solve the problem. In addition, the Legal Aid Department should remove the salary ceiling (*The buzzer sounded*) .....

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

**MS CYD HO** (in Cantonese): Hong Kong is really very prosperous nowadays. Walking on streets, we can see not only large shopping malls, but also various facilities like an entire system of railways and flyovers, as well as different kinds of service industries. However, behind this prosperity, there are in fact a lot of miserable stories. Many grassroots workers have to work for long hours with low wages. Worse still, even when they are injured, they cannot get due compensation and respect.

The saying of "no safety for industries" has been ringing in the community for quite some time. Familiar with the textile industry, I will cite the dyeing industry as an example. Those people working at dyeing plants can have a monthly salary of over \$20,000. Why do they have such a high pay? Because the work environment is very poor, and the temperature inside such plants is always above 40°C. Worse still, workers have to breathe in a lot of chemical gases released by dyes all the time. Why are they so highly paid? It is because their health is at risk. Moreover, they even have to work for a month and then rest for a month in alternation; otherwise, they cannot bear it physically and will fall sick. I know many grassroots workers. As life is so excruciating, they have no alternative but to work continuously without a break. As a result, some of them died because of sickness after working in this industry for three months. Workers of the previous generation did not realize that this was an industrial

accident. They would only put the blame on themselves, wondering why they had to live in the lowest stratum of the community and be treated with such a fate.

I still keep in contact with some former workers of the dyeing plants. As far as I know, even though they worked for a month and then rested for a month in alternation, their lungs and skin have been damaged. Industrial accidents may occur in a blink of an eye, but workers will suffer for a long period of time. Therefore, we cannot only look at the figures of just one or two years. Rather, we should review the figures accumulated over the past several decades and find out how many workers and families have been affected.

As a matter of fact, little improvement has been made to the situation so far. Regarding industrial accidents in 2008 and 2009, the number of casualties was 346 and that of injuries was 77 707. In each of these cases, while one worker was involved in an accident, there was a family behind him though. Taking 2.2 million families in Hong Kong as a basis, 3.5% of the families were affected in these two years, and this was a figure for two years only. Therefore, the problem is indeed very serious. Once workers have encountered accidents, their health will be affected. Both employers and society should be responsible for assisting them to recover as soon as possible, for they are the unsung heroes who have built this city.

Among various industrial accidents occurred in workplaces, injuries such as traumas with immediate bleeding and fractures can be easily proved, and claims for such compensation will be processed more smoothly. Even though workers have encountered accidents unfortunately, they can at least claim for compensation more easily. The most miserable cases are those relating to repetitive strain and ligament injuries. These cases are difficult as it is not at all easy to prove that they are work-related. The remarks by the Secretary earlier made me so very furious that I nearly jumped out of my chair. He said that back pain might be due to obesity, old age and improper postures. I wish to quote some figures here. In 2009, among those people who sought medical consultation at occupational health clinics under the LD, 71.5% were aged between 40 to 60. Such an age range of 20 years is already very outrageous *per se*. But those aged 21 to 40 also accounted for 26.7%. How can the Secretary say that their repetitive strain injuries are caused by functional

impairment because of old age? How can he draw such a conclusion? As for those aged below 40, more than one fourth had sought medical consultation.

Deputy President, I therefore wish to focus on back pain. Indeed, it is very difficult to relate it to work directly. Workers may have suffered from such pain for a long time. As a result, they may get hurt even when doing some simple actions like bending down to wash their face. They cannot stand up and may even suffer from paralysis for a few days after sneezing or making some labour-intensive actions. I have also had such experience. However, the repetitive strain injury caused by their work in the past is not covered. This is really very improper.

For this reason, I urge the Secretary to prudently and seriously consider including back pain in the scope of work injuries. Let us take a look at the figures of the same year again. Among 2 118 cases in which workers sought medical consultation at occupational health clinics because of occupational injuries, 64.4% were females. Among them, 90.5% suffered from repetitive strain injury. On the contrary, the number of those working on construction sites was very small. More than 50% were engaged in community and personal services, whilst 23% were engaged in wholesale, retail and catering industries. Therefore, what we are talking about is not merely construction sites. Industrial accidents of long-term impact will not only occur at construction sites. Even in places which appear to be safe, they can cause long-term harm to workers' health as well.

Deputy President, I very much agree to setting up a specialized rehabilitation clinic for work injuries, so that injured workers, especially those with back pain and repetitive strain injury, can receive treatment and resume work expeditiously, instead of begging for the Comprehensive Social Security Assistance from the Social Welfare Department. I believe the insurance sector and the Hospital Authority should discuss together the setting up of a specialized rehabilitation clinic for those with work injuries. Labour insurance is mandated in the law, so the medical cost is supposed to be incurred anyway. The insurance sector will also prefer providing medical services early, rather than making a larger amount of compensation eventually. This proposal, if implemented, will be a multi-win one. But most importantly, the Secretary

should remove his prejudice and include back pain in the scope of work injuries, so that the goodwill of the commercial sector and employers can be realized.

Thank you, Deputy President.

**DR PAN PEY-CHYOU** (in Cantonese): Deputy President, today, I would like to represent the voices and air the views of a considerable number of victims of industrial accidents who have all along been neglected.

To start with, I wish to relate the story of a man called "Ah Biu", who is in his thirties and married. "Ah Biu" is not his real name. Having worked as a cook for more than 20 years, he has come across every kind of work injuries that may occur in kitchens, only that he has never imagined a certain kind of work injury will happen to him. One day, he was responsible for deep-frying a piece of pork of about eight catties. In fact, he had told his employer that the meat was too big and wondered if he should cut it into smaller pieces. But his employer did not allow him to do so. He then put the meat into the wok of boiling oil carefully and the accident occurred. The oil splashed and his face was burnt. Fortunately, his eyes and other essential organs were not injured. He then reported his work injury. However, a problem arose a few days later, for he could not help recalling the scene of that accident over and over again.

In fact, he said that he had also come across many accidents in which people got burnt as oil spilled out. However, he had never imagined that oil could splash to such a height and burn his whole face. He could not help recalling that accident. Worse still, being a cook, he became afraid of going into the kitchen, not even the one at home. He could not work anymore and became very bad tempered. He would get furious over some minor issues and quarrelled with his wife all the time. He could hardly fall asleep at night, and would have nightmares even he could do so. He felt very inferior and tried to stay away from his relatives and friends. He was no longer interested in what he liked to do in the past.

In view of this, he sought medical consultation from his company doctor. At the outset, he simply sought treatment for his burn. Later, as the company doctor noticed that he had developed some mental problems, he granted him a referral. But he had to wait for a long time. Worse still, the company told him

that the medical insurance did not cover specialist and psychiatrist consultation, and his sick leave had already expired. Under such perplexed and hopeless circumstances, he chose to commit suicide by taking poisons. As a result, he was sent to the intensive care unit of a hospital. Even now, his supervisor is still not convinced that his pain is caused by that work injury. Even he himself does not understand what has happened.

Actually, "Ah Bui" is suffering from the post-traumatic stress disorder, which is not rare at all. An ordinary person may have a chance of about 5% to 10% to suffer this during his life, which is usually triggered by some traumatic incidents, say, witnessing injuries of others or himself, or even deaths. Sometimes, those incidents may not cause very serious traumas to the body. However, as traumas or deaths may be caused, it is sufficient to trigger this disease. I have recounted the syndromes just now. The case of "Ah Bui" is a clear illustration. Generally speaking, many patients, about 60%, can recover within a year. However, about 30% of the patients will have long period of disability as a result.

About 10% of the victims of industrial accidents will have this condition. In fact, this disease has been clearly defined in the medical sector. We also have very clear guidelines, methods and drugs for treatment in place, including psychotherapy. Moreover, the standard for assessment of the disability is also available. However, the attitude of the Government and employers towards this disease is quite vague, for the Government has yet included it under Schedule 1 of the Employees' Compensation Ordinance. As we all know, Schedule 1 covers a lot of work injuries which are some disabilities that may occur. However, it happens that mental conditions are not covered.

Although the Secretary also mentioned just now that even so, employees can still claim compensation. However, as we all know, if this disease is not included under Schedule 1, injured employees should provide evidence to prove that their conditions are caused by accidents at work. Very often, victims are not clear about what has happened. Moreover, it is very expensive to institute legal proceedings. Indeed, it is impossible for general wage earners to do so.

Therefore, we think that the Government should really change its attitude now. Mental impairment and pain cannot be seen by the naked eye, for these patients can still move around without difficulty. But the pain they are suffering

is most realistic. We strongly propose that the Government should include the disability caused by mental impairment under the Schedule. What are the merits of doing so? First, it can arouse public concern, so that both employees and employers can be alerted to this problem. Second, it can also force the insurance sector to address squarely mental impairment caused by industrial accidents.

Moreover, we consider that the Government should also step up its educational and publicity efforts, telling employees and employers the problem of mental impairment and the disability so caused, such that in case victims encounter this problem, there is an appropriate channel for them to seek redress.

With these remarks, I support the original motion and the amendment.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, since the Occupational Safety and Health Ordinance (OSHO) was enacted in 1997, the number of occupational injuries and deaths in Hong Kong had been on a dropping trend during the 12 years from 1998 to 2009 as a whole, decreasing substantially from some 63 000 cases to some 39 000 cases, with a drop of about 40%. As for cases involving casualties, the drop was 31%. Of course, one such casualty is too many. However, from the above figures, we do not see the need to amend the existing legislation or step up the penalties substantially. We consider that under the existing mechanism, the authorities can enhance their routine monitoring and inspection, as well as their educational efforts actively, so as to raise employers' and employees' awareness of occupational safety, thereby minimizing the incidence of occupational injuries and deaths.

(THE PRESIDENT resumed the Chair)

President, I wish to emphasize that in order to promote occupational safety and health successfully, sincere co-operation between employers and employees is crucial. Employers should abide by the law, while employees should also be responsible for ensuring that they comply with the relevant requirements of safety. This is the only way to help reduce the number of industrial casualties.

Of course, in case employees consider that the work environment is dangerous or their health is at risk, they can request their employers or the authorities to make improvement.

However, we have reservation about a number of proposals raised in the original motion and the amendment. For example, the amendment urges the Government to disclose the list of employers who are convicted under the OSHO. Given that those convicted employers have already been penalized as a result of the court judgment, the disclosure of such a list is equivalent to imposing double penalty on them, which is unfair. Moreover, as many employers are individuals, we are also worried that the disclosure of such a list may lead to privacy problems. Therefore, we consider it inappropriate to disclose the list of convicted employers.

Furthermore, it is also unfair to include mental impairment, back pain and repetitive strain injury in the Schedule under the Employees' Compensation Ordinance (ECO), for these injuries may not necessarily be work-related. However, if they are included in the Schedule, once employees sustained injuries, no matter such injuries are work-related or due to employers' negligence, they can get statutory compensation. In that case, the scope of application will be too wide and open to abuse. By that time, it is questionable if insurance companies are still willing to provide coverage. Besides, this is unfair to those employers who are not negligent at all.

And most importantly, under the existing ECO, if employees can prove that they have sustained work-related injuries that are not listed in the Schedule during the employment period, they can also claim compensation. In view of this, cases of mental impairment, back pain and repetitive strain injury which are work-related are also covered by the ECO. It is thus unnecessary to list them in the Schedule across the board.

Regarding statutory compensation, Hong Kong is not inferior to overseas regions actually. Take Singapore, our competitor, as an example. In case an injured person has lost 100% of his earning capacity, the highest amount of statutory compensation is S\$180,000, that is, about HK\$1.01 million. This cap is applicable to people of all ages.



However, according to the ECO in Hong Kong, in case employees have lost 100% of their earning capacity, those below the age of 40 can get statutory compensation of \$2.016 million at most, which is nearly double that of the highest amount of statutory compensation in Singapore. Hence it is evident that the system of statutory compensation in Hong Kong is even better than that in Singapore. Therefore, we do not see the need to raise the amount at this stage.

The Liberal Party also has reservation about setting up a central employees' compensation fund for according to overseas experience, the management effectiveness of such a fund is not satisfactory. Taking the central compensation fund in Queensland, Australia, as an example, it suffered a severe loss of about AUD\$300 million in 1996 and had to seek substantial injection from its government in the subsequent three years. In our opinion, in case the central scheme runs into any financial difficulty and needs to seek an equity injection by the Government, it is tantamount to asking taxpayers to bear the responsibility of paying compensation, which is unfair to them.

Moreover, given that the central compensation fund, which only covers business relating to employees' compensation, does not have any mechanism to share risks and subsidize other businesses mutually, in case the scheme encounters any unpredictable risk, such as the SARS, it may even be plunged into financial straits immediately. If one single institution is designated to co-ordinate all businesses relating to employees' compensation, the scheme may even become ineffective, for there will be no competition at all. This may lead to a loss-loss situation to both employers and employees. I think this is not what we wish to see.

Lastly, I wish to point out that in case some employers really fail to comply with or willfully violate the legislation on occupational safety and health, the Liberal Party fully agrees to handling such cases according to the law. However, this does not mean that we have to put the blame on employers and make them shoulder all the responsibilities without regard to the causes, reasons and consequences.

President, I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): President, in October last year, I received an unusual case of work injury. A 28-year-old employee working in a container terminal company under one of the largest consortia in Hong Kong was sent to Indonesia on a business trip last year and it was suspected that she contracted the paratyphoid fever virus, which was a local epidemic, there. Two weeks after her return to Hong Kong, the disease broke out and eventually, she was completely paralyzed.

At that time, the company refused to admit that it was work-related, nor did it offer any medical allowance or compensation for work injury. The mother of this employee sought my assistance, saying that her daughter was a loyal worker, so when the company sent her on the business trip to Indonesia, she agreed readily without asking about the reasons. In fact, at that time, all other people knew that paratyphoid fever was an epidemic in Indonesia but the company did not remind this employee to be careful with that. This employee and her four colleagues fell ill only after returning from Indonesia to Hong Kong.

Her attending doctor said that her brain stem had been damaged, so she was paralyzed from her neck down and that she could only lie in bed in future. The patient could not claim employees' compensation for this matter. I wrote to her employer and subsequently, this matter was reported by the mass media. A doctor in infectious diseases also provided assistance by attesting that this kind of paratyphoid fever is transmitted only through food and poor hygiene conditions and that the latent period can be as long as two to three weeks.

After this employee had gone through a lot of difficulties and sought assistance from me, her employer was finally willing to send someone to visit her. After this matter had dragged on for a month, the employer eventually agreed to bear the monthly medical cost of the patient. Concerning this unusual case of work injury — I use the term "work injury" to describe it — I wish to raise two questions.

First, there are many questions in this incident. The first is that when the company sent her on a trip to that place, she was not told of the possibility of contracting the disease and none of the employees took any precaution in view of the hygiene conditions there. Second, can this actually be considered as an incidence of illness in the course of employment? She was sent to Indonesia.

If she contracted the disease from eating the food there, can this be regarded as a work injury? Third, her travel insurance also failed to provide any coverage for her, the reason being that the germs had been latent for two to three weeks and she fell ill only after returning to Hong Kong.

Concerning this case, we have done a lot of research and found that at present, there are still a lot of loopholes in employees' compensation. This employee contracted the disease directly as a result of her work and it was in the course of performing the duties assigned by her employer that she contracted the disease. However, we had to wrestle over this matter for a long time because the employer did not consider this a work injury and wanted to take the case to Court. The relatives and family of the employee cannot afford to be involved in any legal battle at all and this would also pose obstacles to the patient's recovery.

Concerning compensation for work injury, this matter is not resolved even now, only that on subsidizing the medical cost, the parent company, which is practically the largest in Hong Kong, has agreed to provide financial assistance and the family members of the employee have also refrained from taking legal action for the time being.

For this reason, insofar as the kind of unusual work injuries are concerned, I believe it is necessary to review the existing Employees' Compensation Ordinance (ECO). It is preferable if employees do not have to take employers to Court after something has happened, thus reducing employees to poverty because it is really difficult for employees to bear the huge legal costs.

Concerning the original motion, I think many proposals in it are desirable. The only issue is: Should employees' compensation cover mental impairment? Here, I must point out that the causes of mental impairment may be numerous. If it is directly caused by one's work, I think it should be covered by employees' compensation. If the types of mental impairment in question are wide-ranging and purely mental in nature, the scope may be rather extensive and in the future, this will also give rise to a lot of unnecessary disputes. For this reason, I believe this should be defined clearly by in provisions of law to prevent unnecessary disputes and claims in the future.

At this stage, I have some reservation about the original motion, but I support a review of the ECO.

President, I so submit.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, the budget proposes to build a prosperous and caring Hong Kong. However, from a number of debates on livelihood issues between Members of this Council and government officials, we can see that the Government only hopes to build a prosperous society and gild the lily for the rich and powerful. As for the provision of timely help to the needy and building a caring society, it is apparently more a slogan and wishful thinking than a true will.

A caring society cannot be built by making a couple of perfunctory remarks or dishing out candies in the budget to win kudos. We can see the world in a drop of water, so the saying goes. It is vitally important for government officials to provide care from the heart and look after the needs of the masses even in minor aspects.

The motion today requests the Government to review the occupational safety and health and employees' compensation system. Just now quite a number of Members have talked about industrial safety. I will now focus on discussing employees' mental health, in the hope that the Government will face this issue squarely.

As proposed in the motion, it is necessary to include mental impairment in the Employees' Compensation Ordinance. Given that employees are entitled to compensation when they suffer from accidents at work, should there not be any regulation on incidents in which they suffer from psychological abuse and oppression by their bosses and supervisors?

According to the information of the Hospital Authority (HA), the number of psychiatric patients in public hospitals has surged by over 20%, from 125 000 in 2004-2005 to 154 000 in 2008-2009. I do not know whether the HA has reviewed the major reasons for this increase, but I believe it is closely related to

the excessive work pressure of Hong Kong people and the constant exploitation by the bosses.

Just in the welfare sector alone, the situation is already very serious. Earlier, a programme co-ordinator under excessive work pressure attempted to commit suicide on the premises of his agency. Fortunately, it was discovered in time by his colleagues and a near tragedy was averted. It is ironic that one of the duties of this social worker is to teach the public how to face adversities.

Last year, my office commissioned an academic, Prof Marcus CHIU of the Department of Social Work of the Hong Kong Baptist University, to conduct a survey. Among the more than 300 sample of social workers interviewed, 15% were found to show symptoms of acute depression, and 8.1% were found to have anxiety disorders. The major reason is social workers indeed have to cope with too much workload, but the agencies and the Social Welfare Department have simply ignored their pressure and constantly exploited them in terms of the system.

Frankly, the situation of the welfare sector may only be the tip of the iceberg because I know the situation in the private sector is definitely more serious. Employees in the private sector have to bear not only a heavy workload and work pressure, but also long working hours and worries about retrenchment. Take bank staff responsible for customer services as an example. They have to take up marketing of credit cards on holidays, yet they cannot refuse such work because it would mean losing their jobs.

Allow me to digress a little here. With the resounding success achieved overseas by the recent movie *Echoes of the Rainbow*, government officials made use of the opportunity to highlight their wish that Hong Kong people will be as hardworking and dedicated as those Hong Kong people in the 1960s and apply self-reliance in adversity in the same way as they did. However, it is easier said than done. To put it bluntly, they are simply asking the people in the lower strata of society to stop complaining and to endure their grievances in silence. How ridiculous it is! The Government even attempts to stifle the avenues for the lower strata to give vent to their grievances. One would be surprised if the mental pressure of the public does not pile up.

I believe including mental impairment in the Employees' Compensation Ordinance can definitely help promote a healthy work culture, which will enable employers to care more about employees' mental health instead of only caring about the business performance of the company. However, I also understand that there are bound to be many controversies over the determination of whether a particular form of mental impairment is a direct result of work. However, employers and employees can work out the details through negotiation, and members of the community can also give their input in order to come up with a feasible option. We hope the Government can take complementary measures and provide more mental support services to the public. That way, Hong Kong will never turn into a city of mental illnesses.

President, I so submit.

**MR WONG SING-CHI** (in Cantonese): President, we have time and again discussed occupational safety and health and matters relating to employees' compensation in the Legislative Council over the years. However, we find that the commitment and concrete follow-ups made by the authorities are most inadequate, nor can they meet the public expectations. Today, Mr IP Wai-ming's motion has provided a very good forum for Honourable colleagues to have in-depth discussion together. The Democratic Party supports today's original motion and Mr LEE Cheuk-yan's amendment.

President, when it comes to occupational safety and health, we will usually associate it with industrial accidents right away. In recent years, a number of fatal industrial accidents have occurred in Hong Kong, arousing extensive concern among the public. One of them was the fatal incident that happened in the International Commerce Centre in Tsim Sha Tsui last year, in which six workers died after falling down into a lift shaft. This incident aroused grave concern in society. As far as I can remember, Chief Executive Donald TSANG, in response to this tragedy, said loudly in front of the camera that one such industrial accident was too many. I believe the public should still remember that scene and subscribe to the Chief Executive's view. The reason is very simple, for all wage earners share a common goal of going to work happily and returning home safely after work every day. I think such a request is most reasonable. Nowadays, the economic situation in Hong Kong is still uncertain. For those families in working poverty, it is even an unknown whether the breadwinners can

keep their jobs or not. Under such a situation, does the Government have any sound measure to ensure that these wage earners can keep their jobs on the one hand, and safeguard their lives and health on the other? Do they have any bargaining power in respect of occupational safety and health? I think all of us will keep a keen interest in the Administration's attitude and follow-up measures to be taken subsequently.

But most regrettably, President, half a month after the occurrence of the fatal tragedy at the International Commerce Centre, when we thought that the Administration would feel pangs over the past mistake and face up to the problem of occupational safety and health seriously, determined to have it solved, another serious industrial accident happened at the Kai Tin Substation of the Lam Tin MTR Station last September, causing one death and one injury. When two workers were moving fire extinguishers, one of the 1 m tall cylinders leaked air pressure of over 1 000 lb suddenly, shooting the cap up to the sky like a bomb. A 26-year-old worker failed to escape and died after being hit in his chest.

President, up to this point, Secretary Matthew CHEUNG may refute (though I do not wish he will do so), alleging that my example happened more than six months ago — I believe he will not say so, but do hope that he will look into this incident — and the Administration has made every effort to follow it up. But the truth is not like this. Let us put aside those industrial accidents that occurred in early years. I wish to cite some recent accidents which occurred this month. On 6 May, when working on a scaffold outside a building, a female worker slipped and fell down 10 floors. Fortunately, she was caught by a nylon net and was not killed. However, she is still in a critical condition. On 7 May, when three workers from the Drainage Services Department were about to repair a sludge dewatering machine in a plant room at the Stonecutters Island Sewage Treatment Works, they all fainted after inhaling poisonous hydrogen sulphide inside the room, the concentration of which was suspected to be more than double the standard. On 9 May, a cargo load of 440 lb suddenly fell from height at the Airport Freight Forward Centre. A stevedore failed to escape and his head was seriously injured. He lost consciousness right on the scene, with blood spurting from his mouth and nose. On 13 May, a worker was hit by a cable of a working platform in his head while working on a construction site at Cheung Fai Road, Tsing Yi. He was then sent to the hospital for treatment. On the same day,

when a 67-year-old worker climbed up a wooden ladder to carry out decoration works at a unit of the Lee Theatre Plaza in Causeway Bay, a metal plate of about 10 m in length dropped from the air-conditioning duct. His right ear was nearly cut off, with only a little piece of skin linking to it. It is very horrible.

President, having talked this far, I wish to ask Secretary Matthew CHEUNG, why Hong Kong, praised as an international metropolis in Asia, has so many industrial casualties. Industrial accidents occur one after another, which really make us feel very worried. I wish to reiterate that regarding occupational safety and health, what the Democratic Party stresses is not merely the labour's rights and benefits. We are more concerned about human lives. Although we always say that employers and employees in Hong Kong have been on an unequal footing in the labour market over the years, with employees being persistently on the weak side, does it mean that the labour, who are in the unfavourable position, have to put their lives at stake in order to alert the Labour and Welfare Bureau to occupational safety and health? I absolutely do not subscribe to this point, for the Administration is duty-bound to protect the public's lives, properties and health, especially the labour's health.

President, although Secretary Matthew CHEUNG has mentioned that over the past decade, the number of industrial accidents in Hong Kong has been decreasing, and the number of 2008 has dropped 7.4% compared to that of 2007. However, as pointed out by trade unions, the statistics provided by the Government at present do not include self-employed persons, otherwise, the figure may even be 20% higher than the existing one. Therefore, I consider that the Administration should resolve the problem of occupational safety and health promptly without delay, and review the relevant policies and legislation on occupational safety and health comprehensively. At the same time, the Administration should also make efforts to raise the safety awareness of wage earners and strengthen their skill to deal with contingencies. Moreover, it should impose severe penalties on law-breaking employers, so as to prevent them from putting workers' lives at risk. I hope the Secretary can provide some more long-term measures and policies that can really protect wage earners' rights and benefits.

I so submit. Thank you, President.



**DR RAYMOND HO** (in Cantonese): President, compared with the situation more than 10 years ago, the occupational safety and health situation in Hong Kong has evidently improved. In 1998, a total of 63 526 cases of occupational casualties were recorded, and the casualty rate per 1 000 employees was 26.7. In 2008, the total number of cases of occupational casualties and the casualty rate per 1 000 employees respectively dropped to 41 900 and 15.8, and there were respective reductions of 34% and 40.8% compared with the 1998 figures.

A similar trend has been recorded in the construction industry which has all always involved high risks. In 1998, 19 588 cases of industrial accidents were recorded in the construction industry, and the accident rate per 1 000 workers was at a high level of 247.9. In 2008, the number of cases of industrial accidents in the construction industry and the accident rate per 1 000 workers respectively decreased to 3 033 and 61.4, and there were significant reductions. Within 10 years, there were respective reductions of 84.5% and 75.2%.

However, there were still 20 fatal accidents in the construction industry in 2008. Being a developed economy, Hong Kong should strive to improve its performance in occupational safety and health with a view to reducing the occurrence of occupational casualties. Occupational casualties not only do harm to the victims, for the family members of the victims will also be immensely distressed, which is also a loss to society.

To reduce the occurrence of industrial accidents, the authorities concerned should review the relevant ordinances from time to time, and ensure through participation by stakeholders (including employees and employer bodies) that the ordinances meet the practical needs. Nevertheless, merely enacting legislation is not enough and serious enforcement is equally important. The Labour Department must step up monitoring, inspections and prosecution of offending employers. Taking the construction industry as an example, falling from height is the principal cause of fatal industrial accidents. The authorities concerned should conscientiously explore ways to enhance the relevant legislation, and suitably regulate the work procedures and safety measures, as well as regulating the stakeholders concerned through inspections (including blitz inspections) with a view to improving the situation.

Taking into account the fact that the number of construction projects will increase with the implementation of large-scale infrastructure projects, the Government must step up work in this area to ensure that industrial accidents, especially fatal industrial accidents, will not increase in tandem with the increase in the number of projects. I agree very much with the remark just made by Mr WONG Kwok-hing, that construction site safety officers should not be employed by the contractors because there may be conflicts of interest as a result of which the safety officers may not be able to discharge their functions. Therefore, the safety officers should be employed by employers or the Government (if the Government is the employer); in that case, the work progress will not be affected when the contractors are not satisfied with the recommendations made by the safety officers, and the costs will not become higher, and problems between the parties will not be caused. The Government should conduct a review in this area. Apart from the construction industry, the Government should strengthen the relevant regulations and enforcement actions in respect of other high-risk industries and works execution, to ensure that the persons concerned comply with the provisions in law with a view to reducing the occurrence of fatal industrial accidents.

Furthermore, the authorities concerned should make use of various media such as television, radio, public modes of transport, mobile promotional media, and the broadcast of announcement of public interests in shopping centres to enhance employers' and employees' awareness of occupational safety and its importance. For some high-risk industries, the Government should launch focused publicity activities for stronger effects.

As regards the definition of prescribed occupational diseases, since the services industry has replaced the manufacturing industry as our pillar in the past decades, and individual work types require workers to maintain fixed positions or perform repetitive actions over a long period of time, probably having adverse physical effects on employees, the Government should review on a regular basis the occupational diseases for which compensations shall be made under the law and examine if the scope of occupational diseases covered should be enlarged in the light of various changes.

President, being a developed economy, Hong Kong should strive to raise the occupational safety and health standard and review the employee

compensation system from time to time, such that employees can enjoy appropriate protection.

I so submit. Thank you, President.

**DR LEUNG KA-LAU** (in Cantonese): Theoretically, labour protection is very important, and in particular, employees should receive proper protection for work injuries. However, after studying the original motion and the amendment, I really do not know how to cast my vote. Earlier I have listened to the remarks made by many Honourable colleagues, but no one has touched on any data so far. I hope the Secretary will tell us later whether he has the relevant data in hand.

Very often, labour protection will inevitably incur additional costs for employers. Put simply, the cost for employees' compensation insurance will increase. Then, how much additional cost will be incurred if employee protection is enhanced, as proposed in the original motion and the amendment? Just now I found out the annual amount required for taking out employees' compensation insurance policies for the staff of my office. An amount of \$1,113 is required for three staff members. It is fine even though the cost is a bit high, but the problem is only indoor work is covered because the premium for insurance covering outdoor work would be higher. Besides, the larger the number of employees, the higher the cost will be. In that case, how much does the employer of a garment factory or a company undertaking renovation, maintenance and repair works with 20 employees have to pay for employees' compensation insurance each year? What is the estimated cost and the additional expenditure incurred if the protection is enhanced as proposed by other Honourable colleagues just now? I must take these data into account when deciding whether the money is well spent, right?

Besides, an Honourable colleague proposed setting up a central employees' compensation fund. From what I have heard, it seems the Honourable colleague sitting next to me is against it because he is a member of the insurance sector, and as this involves his business, he cannot but oppose it. I heard some doctors engaged in the occupational health practice say that they support this proposal. Why? Actually, Hong Kong has already set up central employees' compensation funds, just that they do not cover all occupations. To my understanding, two central funds have been set up for pneumoconiosis and occupational deafness.

Why do they consider it desirable to set up central funds? Because the two funds are now "flooded with money", that is, there are surplus funds. Therefore, as far as I know, workers will also receive compensation for monaural hearing loss, although they could only receive compensation for hearing loss in both ears in the past. Besides, due to the surplus funds available, the premium rates have also been reduced. Therefore, people engaged in the occupational health practice consider it more appropriate for the Government to manage the relevant funds.

Besides, I would also like to obtain the following data. What will be the difference in premium rates if the fund is managed by a commercial insurer or the Government? How much profit will the insurer make if it uses the premium for investment? How much will its administrative cost be? Will it bring more benefits if the fund is managed by a commercial insurer, or the Government? If we can get hold of these data, we can make a comparison.

It has been pointed out repeatedly by some Honourable colleagues and in the amendment that it is hoped that the Hospital Authority (HA) will provide special services to employees who have sustained work injuries. As an employee of the HA, I appreciate the situation of the HA management. According to the practice of compensation funds for employees' injuries at work, the insurer will get the premium. However, for medical insurance policies in general, the insurer will, upon receipt of the premium, pass it to the service provider, that is, the health care provider, and then the doctors will be responsible for providing treatments to the patients concerned. With compensation funds for employees' injuries at work, the HA can only charge the employee concerned \$200 per day for services provided by the HA. The HA has to subsidize 97% of the patient's medical expenses, which amount to almost \$10,000, without pocketing a single cent. If all the services were be provided by the HA, their efforts would, to put it simply, generate nothing in return. Therefore, for the time being, the HA treats patients who have sustained work injuries and civil servants in exactly the same way as it treats ordinary members of the public, in accordance with the requirements of the Government, and all Hong Kong identity card holders have to stand in the same line. Some insurers have therefore calculated that if an employee has to take sick leave for work injury for a long period of time, and if he is eligible to take such sick leave with pay — a sick leave may last up to two years, right? It may last up to two years — if he is eligible to paid sick leave for the whole period of two years, the amount involved may be as much as \$200,000 to \$300,000. However, if the treatment time can

be shortened by subsidizing the patient to undergo a one-off surgery at a private hospital, the cost involved will be lower. To put it simply, this is a commercial decision. To improve the compensation system for employees' injuries at work, would it be more beneficial to employees if we encourage these commercial decisions?

These are the few major areas in which I am more well-versed ..... perhaps there are three other things I know of. Just now some Honourable colleagues proposed classifying repetitive strain injury as a prescribed occupational disease. However, many difficulties are involved. I am responsible for providing colorectal out-patient services. Actually, almost all patients who seek treatment from us would complain about back pain, knee pain and headache, and so many complications are involved. Besides, there is also the proposal of including "employees who sustain injuries when travelling to and from work under the coverage of the Ordinance". Much as I sympathize with the six people injured in the traffic accident earlier, very often, employees may not go to work from their home direct or go home immediately after work. Therefore, it is very difficult to define the relevant scope. Finally, I very much agree to and support the amendment on removing the cap of \$21,000 for the employees' monthly income.

President, I so submit.

**MR CHAN KIN-POR** (in Cantonese): President, despite the enormous effort made to promote industrial safety in recent years, work-related injuries and deaths still keep happening in Hong Kong. Whenever I hear about serious industrial accidents, I would feel sorry for the victims, hoping very much that these unfortunate events will not occur again.

The motion moved by Mr IP Wai-ming today contains quite a number of proposals on occupational safety. I think most of them are worth supporting. In particular, the proposal of enacting legislation on safety measures for work-at-height activities can indeed address the actual situations of disasters in the construction industry involving fall of persons from height, which happen from time to time. Besides, the proposals of conducting a comprehensive review on the policy on occupational safety and stepping up inspections also

merit our support. However, I think the setting up of a "central employees' compensation fund" proposed in the motion is open to question.

Members of the labour sector actually know very well that the Government studied the issue of setting up a central employees' compensation insurance (ECI) scheme in 2004. Subsequently, it adopted the Employees' Compensation Insurance Residual Scheme advocated by the insurance sector to provide a market of last resort to employers engaged in high-risk occupations to ensure that they will be able to take out ECI policies in the private market. The Government did not adopt the central ECI scheme in the end as there are many shortcomings in it. Not only is it unable to address the prevailing problems, it will also jeopardize the rights and interests of employers and employees.

Compared with other countries or places, employers in Hong Kong pay a low premium for ECI, yet employees can enjoy the most comprehensive ECI protection and benefits in the world. According to the statistics from the study on the central ECI scheme conducted in 2004, there were no restrictions on employees' access to common law damages, while the average premium paid by employers was about 1% of employees' salaries. This was lower than the premiums paid by employers in countries with central ECI schemes as well as Queensland in Australia and British Columbia in Canada where access to common law damages is restricted or has been abolished. The premiums in these two places were 1.55% and 1.92% respectively, which were higher than that of Hong Kong by 50% and almost double that of Hong Kong respectively. In other words, compared with a central ECI scheme, the existing system of Hong Kong is indeed more cost-effective.

Besides, one of the merits of the existing system in Hong Kong is that the increase in premium is controlled by market competition. Actually, given the fierce competition in the insurance market and the existence of over 100 insurance companies in Hong Kong, insurance premiums can hardly go up. Besides, due to cases of fraud by unruly elements for insurance compensation in recent years, insurance companies have been operating ECI at a loss. In 2007, there was a loss of over \$160 million, and the loss recorded in 2008 increased to over \$490 million. In spite of this, members of the insurance sector have worked out ways to deal with the losses. For example, they may, subject to regulation, use the premium for investment, and use the revenue from other types of profitable insurance to cross-subsidize ECI to obviate the need to substantially

increase the premium at once. Comparatively speaking, a central ECI scheme lacks market flexibility, and thus a substantial increase in premium is required in the face of losses, which will exert immense pressure on both employers and employees.

At the same time, some people opine that a central ECI scheme can reduce administrative costs. However, it should be noted that public organizations tend to adhere strictly to established rules and practices and are always criticized for their low efficiency. As a result, they often have to employ additional manpower, and as the salaries of their staff are much higher than those in the private sector, so are their actual expenditures. Therefore, setting up a central ECI scheme will not bring about a drop in premium. Quite the contrary, it will cause the entire ECI system to become bureaucratic, which will do enormous harm to employees and employers.

Actually, the original motion proposes to set up a "central employees' compensation fund" to centralize the management of work injuries, which is currently undertaken in a fragmented manner. I agree with the spirit of this proposal, but the key to centralizing the management of work injuries does not lie in whether work injuries are managed centrally or by the private sector, but in resources. The private sector or public-private partnership, such as the partnership between the insurance sector and the public health care sector, can also effectively centralize and co-ordinate the medical check, treatment, compensation and rehabilitation services, even with better quality of service than otherwise provided under a central mechanism. Therefore, it is indeed not necessary to set up a separate dedicated central mechanism which will incur enormous expenses. The biggest problem now is how to obtain the funding. It will certainly be the best if the Government can allocate funding for it, otherwise we have to count on the insurance sector and the Labour Department to work out the solution to this problem.

Mr LEE Cheuk-yan's amendment proposes to substantially increase the responsibility of employers. However, I must point out that occupational safety is the responsibility of both employees and employers. Employees should also raise their safety awareness without disregarding safety measures. Actually, all of us agree to stepping up efforts to promote occupational safety, but regarding immediately increasing the statutory amount of compensation across the board and substantially increasing the employees' maximum monthly income for

calculating the amount of compensation and including self-employed persons and all employees who sustain injuries when travelling to and from work under the coverage of the Ordinance, I think thorough examination and extensive discussion are required. It is because these proposals will substantially increase the ECI premium, and I doubt whether employers can afford such a high rate of increase. Therefore, we must fully consult employer organizations before implementing these proposals.

I always believe that employees are the most important partners of employers, and their relationship is one of partnership instead of rivalry. I believe that as long as employers and employees can develop mutual trust and understanding, many problems can be dealt with more effectively.

President, I so submit.

**MR IP KWOK-HIM** (in Cantonese): President, when discussing the issue of occupational safety and health, we cannot possibly leave out workers in the construction industry because of all the industrial accidents in Hong Kong and even in various parts of the world, accidents on construction sites always arouse the greatest concern. From 2006 to 2008, I was the Chairman of the Building Committee of the Hong Kong Housing Authority and on account of this, I came into contact with the construction industry because a large number of public housing projects were managed by the Housing Department and at that time, one of the tasks of the Building Committee was to strive to attain the goal of "zero accident" when carrying out those projects. For this reason, I am still very concerned about industrial accidents on construction sites and hope that the authorities can promote the safe operation of construction sites more actively.

Several years ago, due to a significant decrease in property development and infrastructure projects in Hong Kong, the supply of construction site workers was greater than demand, so the problem of construction site workers being owed wages was quite common then. However, nowadays, although workers' employment situation has improved significantly with the gradual increase in the number of projects of various scales, we also find that the number of fatal industrial accidents resulting from work at height and renovation, maintenance and repairs projects has also increased markedly at the same time. With the successive launch of more large-scale projects, the introduction of "Operation



Building Bright" and the Mandatory Window Inspection Scheme by the Government at present, as well as projects of general building repairs and maintenance, I believe the Government must pay greater attention to occupational safety and health at the front line by stepping up inspection, law enforcement and publicity. I must stress that since the regulatory measures at present still cannot prevent the occurrence of fatal industrial accidents effectively, the Government should give further consideration to the demand for the imposition of further regulation on occupational safety and health, including the need to follow overseas examples by enacting dedicated legislation on work at height.

President, the existing provision for the notification of work injuries or occupational diseases is that unless the death of an employee has occurred in the course of employment, the employer is obliged to notify the Government of a work injury or occupational disease within a specified period of time only after the employee has reported the same to the employer. We believe there is no doubt that this policy has put workers in bogus self-employment in a most unfavourable position. Once they have been forced to become bogus self-employed workers, if they unfortunately sustained injury at work or were afflicted by occupational diseases, their *de facto* employers will and can naturally and justifiably evade the responsibility of paying compensation to the workers concerned, nor do they have to notify the Government. For this reason, the DAB supports imposing the requirement that in the event of accidents and occupational diseases in workplaces, including those involving subcontractors and self-employed persons, the employers, contractors or persons in charge of the construction sites, and so on, have to report such cases to the Government, so as to improve the reporting system for work injuries and occupational diseases, thereby enabling the Government to obtain more accurate statistics on work injuries and occupational diseases and assure the rights to which bogus self-employed workers are entitled.

In view of the fact that individual trades, such as the courier service, can indeed easily cause such evident ailments as repetitive strain injuries, we propose that the Government review the diseases that are included in the definition of occupational diseases and examine whether or not such diseases as repetitive strain injury mentioned just now as well as mental impairment can also be included in the scope of protection.

As regards a "central employees' compensation fund", in the past few years, the DAB has all along supported the proposal that the Government examine the feasibility of establishing a central employees' compensation scheme. We can see from overseas experience that having a non-profit-making central employees' compensation authority underwrite all labour insurance and pay out compensation to all employees who have sustained work injuries or who are suffering from occupational diseases can reduce the administrative costs which would otherwise be incurred by private insurance companies providing insurance coverage, and the savings can be used to increase the amount of compensation paid out to workers for work injuries or deaths. However, just now, I heard the representative of the insurance sector, Mr CHAN Kin-por, voice different opinions on this proposal. We believe that it is worthwhile to look further into this area. Another view we hold is that if this approach is adopted, the taking out of insurance policies by employers can be monitored effectively, so that any failure to take out insurance and evasions in doing so can be prevented, and the resources can thus be used to develop rehabilitation services more effectively. More importantly, this arrangement can link labour insurance to occupational safety, and the central employees' compensation authority can set the level of insurance premium by monitoring the safety records of various industries and organizations, so as to make employers attach greater importance to occupational safety.

President, concerning Mr LEE Cheuk-yan's amendment, we have some reservation, mainly because his amendment is related to how the three parties, namely, the Government, employers and employees, will work out the details. For this reason, if the decision is made in such a hasty way, we have some reservation about it. Thank you, President.

**MR ALAN LEONG** (in Cantonese): President, some time ago, an advertisement on the Construction Industry Training Authority was shown on television. A construction worker said proudly in the advertisement that he had taken part in the construction work of the Hong Kong Coliseum in Hung Hom and the Eastern Corridor, and he felt so proud of it. In the advertisement, the lead character who has "good prospect and high income" concludes the scene with this line: "I will find a decent flat with my wife". Actually, the advertisement highlights that members in the construction industry in Hong Kong have played a part in creating the prosperity of Hong Kong, and that their work not only enables them

to support their wives and children, but it is also something they should take pride in.

However, President, the advertisement has only depicted the relatively positive career path of workers in Hong Kong, particularly that of workers in the construction industry. But comparing the situation against facts, I am afraid the advertisement has only reported the good side of the story but not the bad side. For if these workers were injured at work, they would immediately fall into the abyss, not receiving proper respect or reasonable reward to the very least. A number of colleagues of this Council have spoken earlier, and they have cited many real examples. These examples are non-exhaustive.

Actually, the Government should redouble its effort to catch up on the fronts of occupational safety and health and the compensation system, where there is much room for improvement. For instance, President, according to the information of the Labour Department (LD), in the two years 2008 and 2009, the number of workers killed in fall-from-height cases doubled from eight cases in 2008 to 16 cases in 2009. It is worrying.

On 24 February, Mr IP Wai-ming raised a question asking whether the authorities would consider making reference to the practice of the United Kingdom and enacting dedicated legislation on work-at-height safety to protect the safety of workers. The Secretary replied at the time that the current legislative framework had provided for adequate control on work-at-height safety to protect the safety of workers, thus the authorities had no plan to make separate legislation for this particular aspect. But, President, the fact is that work-at-height accidents have occurred one after another, causing the largest number of fatal cases in the construction industry. Why? When some members of the media visited the sites in various districts, they found that many workers were negligent in ensuring safety. Some of them just walked along bamboo poles at a height of three or four storeys without wearing safety belts, the most essential safety measure, let alone taking other safety precautions. Ironically, in the renovation work carried out at Yue Wan Community Hall in Chai Wan of the Home Affairs Department, substandard working platforms were used.

President, if so many substandard safety measures are found in the random checks conducted by reporters, I believe it reflects that the problem is just the tip of the iceberg. President, those cases also brought to light three issues. First,

have employers provided proper and adequate safety facilities to workers? Second, do employees have adequate safety awareness? Third, are surprise inspections conducted on a regular basis adequate as the Secretary said? Though legislation has been put in place, without adequate inspections, the legislation will exist only in name and fail to serve its purpose.

Certainly, President, as this Council has discussed on various occasions that if the site safety officers are employed by construction companies, it means "monitoring work is carried out by their own men", which may not be the most effective way to prevent accidents. The Civic Party considers it necessary for the LD to require a third party to conduct site safety inspections.

I still have some time, President, and I would like to talk about the problem of "bogus self-employment", which some colleagues have mentioned earlier. The accident that occurred to a courier of the 24 hour McDelivery has brought to light the problem of "bogus self-employment". This problem, which is frequently heard, is found in various industries, such as professional truck drivers, members in the massage and manipulation industries, and even the entertainment industries. Employees in these trades started to notice the problem and made complaints about it. However, many employees dare not assert their right to their employers out of the fear of losing their jobs. The Civic Party considers it necessary to urge the authorities to face the problem squarely and amend the legislation expeditiously to stamp out the injustice caused by bogus self-employment.

President, workers being exploited are invariably the lower-income group in society, and a majority of workers suffering injuries is the breadwinners of their families. We can see that in many cases, when workers were injured at work, their families would immediately lose their financial support. Since recovery takes time and resumption of work seems to be nowhere in sight, the workers have no means of living. President, labour should be rewarded. We are in a developed and affluent society, where individual rights should be respected and there should be care and justice. Injuries at work are most unfortunate, and we should prevent these accidents from causing further tragedies. Hence, the Civic Party urges the Government to conduct a comprehensive review of the Employees' Compensation Ordinance, and to do its level best to help injured workers. It should examine the inclusion of mental impairment and repetitive strain injury as occupational diseases.

On behalf of the Civic Party, I support Mr IP Wai-ming's motion and Mr LEE Cheuk-yan's amendment today. I so submit.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I heard Mr IP Kwok-him say that he could not support the amendment proposed by Mr LEE Cheuk-yan, for this would undermine the tripartite co-operation between employers, employees and the Government, which helped straightening things out.

This is really bizarre. The Hong Kong Federation of Trade Unions (FTU) should be on the employees' side, or I would say, those believing in the party platform of the Communist Party of China should serve the workers. If so, why does the FTU say that proposals without the consent of employers should not be carried out? Actually, this is a vivid example in education. A government should have vision in its governance, and its objective is to exercise its public power. Should it take care of the 3 million or so workers or their employers? It is the fundamental question.

President, today, the Association for the Rights of Industrial Accident Victims gave me a letter, which has the year 1981 written on it. Honourable Members, it is 1981. At that time, when universal suffrage was not yet a topic of concern, an association focused on the rights of industrial accident victims had been established. But now the situation has deteriorated to a disastrous state. Regarding reforms in Hong Kong, particularly those related to workers, every time people will exploit the loopholes in law to cause sufferings to workers. "Bogus self-employment" is the by-product of the Mandatory Provident Fund (MPF), for employers required employees to undertake bogus self-employment to evade their responsibility of making MPF contributions. Under such an arrangement, employers can evade MPF contributions, but employees will lose the employees' compensation to which they are entitled under the law. My offices have received quite a number of these cases.

Honourable Members, a political group has been talking endlessly about saving \$150 million for workers in Hong Kong. But when a worker group proposes a reform in this legislature and urges the Government to deliver benevolent governance, it expresses reservation. I think this is utter hypocrisy. The Government should exercise its public power to make employers take out

\$1.5 billion to change the existing corrupted system, so that the several hundred thousands of workers will benefit from the improvement, should it not do so? Some people have criticized me for wasting \$150 million of public money. The speech of Mr IP Kwok-him today reveals this incident. He thinks that the Government should on the pretext of maintaining fake neutrality propose the tripartite negotiation approach to people who enjoy absolute advantage in the relations of production under capitalism and under the obsolete legislation of colonialism. Will any cat hate fish? Do any capitalist not wish to maximize profits? To achieve profit maximization, employees have to be exploited more effectively. On the debate on minimum wage, Members of this Council blamed Members who had resigned. But have they ever considered that the interest of estate developers can be infringed too? The authorities only need to lower the Government rent, carry out the reform on minimum wage and implement the hourly wage of \$33. It is definitely possible. During the promotion of the referendum of the five geographical constituencies, I met an employer and he asked me to express his views here today. He said, "Long Hair, you should tell them that we too want to pay wages to low-income employees, but we are oppressed by the landlords." Brother Yuk-man, now sitting beside me, is an example. One of his shops has closed down, not because the wages of employees are too high — I urge that he must pay more than \$33 per hour to his employees — but the exorbitant rent charged by the landlord.

Members may notice that in the campaign of referendum for the five geographical constituencies, everyone muttered to themselves that the \$150 million had been spent wrongly, and that sum should have been used to help the poor. In this legislature, when Members returned by genuine popular election, like me, put forth a proposal for reform, how strong will the opposition he faced be? "20-dollar CHEUNG" has changed to "24-dollar CHEUNG". Honourable Members, what is the moral this story? Who can tell us that it is a must for the Government to help the capitalists, large estate developers or large consortia to exploit workers to reap maximum profit? In order to maintain this system, the corrupted coterie election of functional constituencies is implemented to protect their privilege. They are the one cheating the public. They use the \$150 million to cheat the ordinary man. Today, I have to reiterate here that what Mr IP Kwok-him and his group are saying and doing in this legislature is to betray the working class at the critical moment every time. The DAB is the most powerful, while the FTU too has some face. I declare solemnly here that if

this group of people continues to defend the corrupted coterie election of function constituencies, they are being hostile to the 3 million or so workers who are being exploited, discriminated and ill-treated under the system. Do not think that by offering a carrot of \$150 million, they can beat us with a big stick. Today, I have returned. I will definitely continue to criticize this fake kindness and fake righteousness on my mouth and in print.

Honourable Members, \$150 million is quite a sum. However, this brings to light how the Government favours the capitalists and large consortia, and causes sufferings to workers. Hence, I have come to a simple conclusion, President, if a small number of people in a society enjoy a political privilege, which enables them to manipulate the legislative, judicial service and law enforcement, there will be no justice. The campaign on the referendum of the five geographical constituencies seeks to strive for a fair and impartial political system, so that workers exploited and abused will have the right of expression and the right to strive for their own interests. Thank you, President.

**MR WONG YUK-MAN** (in Cantonese): President, when we look at these figures, we know clearly that there are many problems with occupational safety in Hong Kong, particularly in terms of the system and legislation. So, honestly, if government agents do not change their mindset in governance, these so-called reforms on occupational safety and systems safeguarding workers' rights and interests will only be futile attempts. The tenet of the issue is that the Government insists on ensuring that the interests of large capitalists are protected in the Chamber of the Legislative Council. There are copious examples of this.

While some people say repeatedly that they will protect the rights and interests of workers, but once it comes to conflicts of interest involving capitalists and plutocrats, they will decisively side with the capitalists and plutocrats. Mr LEUNG Kwok-hung illustrated this point most clearly just now.

The League of Social Democrats (LSD) has made a clear exposition of relevant issues in our platform. Regarding the question today, we support both the original motion and the amendment.

Really, the Government should think twice about the matter, considering whether this is merely another alteration in form. Later, the Secretary probably will engage in another monologue, talking about things he does not necessarily believe sincerely and stating that the Government is always right and they have done a lot of work in occupational safety. Regarding the several proposals put forth by Members today, we think they should be implemented in earnest. The LCD has mentioned that a number of times.

First, severe penalties should be imposed on law-breaking employers. Recalling the serious industrial accident that occurred in July 2007 on the demolition site of the Mitsukoshi department store in Causeway Bay, where the sudden collapse of a tower crane killed two workers and injured another five, the company responsible for the operation of the tower crane was given a penalty of \$30,000 only. Will the Government think of ways to amend the legislation to impose severe penalties on employers causing industrial accidents, undermining occupational safety and causing deaths and casualties? Has it ever tried to amend the legislation? If not, how can it do justice to the families of the victims?

Second, Members all know that many accidents are caused by work at height. In tightening the regulation of the safety of work at height, what has the Government done in the past? In respect of the structure of temporary scaffolds, many workers have made frequent complaints to us about the unstable structures of these scaffolds causing numerous accidents and workers being killed when they fell from height. These temporary scaffolds, which are dubbed "suspended scaffolds", are mostly built on angle brackets installed on external walls. Though the Secretary will definitely tell me later that some installation instructions have been put in place, we see accidents keep happening all the same. It is evident that the existing measures fail to ensure safety. The safety of angle brackets for suspended scaffolds is open to question. Will the authorities examine as soon as possible ways to enhance the safety of scaffolding devices, and measures and work procedures on erecting scaffolds and work at height now in use with a view to assuring the safety of workers? In this connection, what has the Government done?

There is one more point. The LSD is particularly concerned about the work arrangements in hot and inclement weather. For more dangerous work like work at height, whether the codes of practice on work in inclement weather



issued by the Labour Department (LD) are legally binding. In the past, many workers were killed when they worked in times of typhoons and fell from height. These fatal tragedies are evident that the relevant codes of practice fail to protect the safety of workers. The SAR Government should legislate to mandate employers following the relevant codes of practice, and stipulate the working procedures to be adopted to prohibit dangerous work, such as work at height and external wall maintenance work, when warnings of inclement weather are in force.

Moreover, there were many cases involving employees suffering from heat stroke during outdoor work, and some workers died because of this. But the LD has not laid down any code of practice for work in very hot weather. The SAR Government should at the same time legislate to cap the maximum hours of work when the Very Hot Weather Warning is in force, requiring employers to provide adequate rest breaks, portable water and heat stroke prevention facilities for their employees.

Also, we support the setting up of a central employees' compensation fund. Due to the time constraint, I will not go into details of this.

Members may have noticed that the existing system, the contractor system in particular, is full of loopholes. In the event of an accident, no one knows who should be held responsible. The same old remark: the rights and interests of workers are in no way protected in Hong Kong, a society where capitalism is highly developed.

Hong Kong is a society of mercantilism, besides, it is stated unequivocally in the Basic Law that the capitalist system shall remain unchanged for 50 years, which gives ample justification for the SAR Government to uphold the interest of capitalists and plutocrats. President, in this Chamber, Members returned from functional constituencies together with other Members from the pro-government camp have taken up more than half of the seats, 37 seats in total. Insofar as the rights and interests of workers are concerned, what is the attitude adopted by this overwhelming majority of Members?

In the Chamber of the Legislative Council, certain Members have been doing their level best to protect the rights and interests of workers. Some have been busy running here and there to call for actions, while some have expressed

opinions or remarks on protect the rights and interests of workers. They command our respect. However, there are Members who use maintaining the stability of the capitalist system as the excuse for presenting their fallacy that the living of workers can be protected only when the interest of capitalists is upheld. We will remind them persistently of their fault, for they have violated a principle that should be upheld in a harmonious society. How can harmony be achieved? Not by the disappearance of disputes, but by having justice done. But we will not see justice done in this legislature, President.

The three of us from the LSD support the original motion and Mr LEE Cheuk-yan's amendment today.

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

**MR ALBERT CHAN** (in Cantonese): President, in a legislature manipulated by the functional constituencies, it is next to impossible to fight for the interests of the working class. The functional constituencies are good at collusion between the Government and business, transfer of interest and condoning the large consortia. Members returned by functional constituencies and representing workers, more often than not, try to give a big helping hand to the Government under the pretext of mild condemnation. When the Provisional Legislative Council repealed the law on the right to collective bargaining, those representatives of trade unions did not come forward to defend the interests of the working class. Hence, not until there is democratization of the political system, workers in Hong Kong will surely be suppressed and exploited by Members returned by functional constituencies. This Government, which supports collusion between the Government and business, is condoning these unscrupulous and shameless consortia, while disregarding the interest of the working class.

In the districts, we will come across numerous industrial accidents and often receive complaints from the public. More often than not, work injuries mean the onset of tragedy in a family. First, during the recuperation from work injuries, employees sometimes are not entitled to paid sick leave because of their

length of service. Though a medical certificate on the work injury is issued by a medical practitioner to grant sick leave to the employee to relieve him from work, the sick leave granted is not paid sick leave. In that case, the employer will not pay wages to the employee, and the employee can only initiate civil proceedings. However, when they apply for legal aid, the authorities will reject the civil claims on the ground that the work injury case has yet to be processed. During the recuperation from work injury, the employee concerned will not receive any compensation or wages, and he cannot go to work. Their plights warrant sympathy.

Second, sometimes, the work injury compensation granted after adjudication is meagre. Compensation is calculated according to the actual capability loss, but the actual capability loss may not reflect the actual income loss as a result of the incapacity. Though minor work injuries and partial disabilities, say losing one finger or two, will only result in the loss of 5% of earning capability, the employee will not be able to find a similar job in reality. This can be likened to a death sentence on the employee, but the compensation granted is pathetically meagre.

Third, many job types are not covered by the relevant law. Earlier on, I helped handling a case involving a late civil servant who used to be responsible for burning waste at the incinerator. He had done that job for 10 years or so. Subsequently, he was found suffering from silicosis, but the disease was not included in the coverage of work injuries. According to the information on the Internet, the disease is usually caused by several factors, and one of them is the inhalation of large amounts of smoke. But this disease is not included in the coverage of work injuries in Hong Kong. He had been working for the Government for more than 10 years and eventually died from this disease, but the Government just turned a blind eye to the case and offered no compensation. The authorities said that smoke inhalation was not a principal cause, but there is medical evidence that it is a partial cause. Should the Government not offer compensation for the partial loss caused? The Government just disregarded the case. Is this not an unscrupulous and shameless government?

While senior officials of the Government enjoy a handsome pay and good benefits, employees at the junior level suffer all kinds of abuse. Hence, not until

the political system is reformed, the plights of workers in general in Hong Kong, particularly employees suffering from work injuries, will never end. So, I urge the public enduring the plights to understand the deficiencies of the existing political system, the problems caused by collusion between the Government and business, and the plights suffered by workers as a result of the manipulation of the legislature by functional constituencies.

When it comes to industrial safety, President, Mr WONG Yuk-man mentioned the problems of work at height earlier. In 2008, I handled a case that made me furious. The case involved the contracts on rooftop cleaning under the Housing Department (HD). The law stipulates clearly that certain industrial safety measures have to be adopted during work at height of 2 m or above. Some members of the public find it unacceptable, for the men, elder men and women who carried out rubbish clearing and cleansing work outside at height never wore safety belts, which is obviously in violation of the industrial safety laws. They thus lodged repeated complaints with the HD and the foremen, but their complaints were not handled. It was not until we wrote to the authorities that it started following up the cases. Despite the complaints made by the public, the authorities just condoned the violation of contracts by the contractors, disregarding the safety of workers. Later, I received a reply in response to my letter, stating that within a short period, that is, June in 2008, the authorities had conducted 403 special inspections, issued one improvement notice and 353 written warnings, and only one case of violation called for the initiation of prosecution by the authorities. Had I not complained to the authorities, would the authorities just carry out no inspection and investigation? But upon receiving my complaint, the authorities conducted 403 inspections and issued 353 written notices in just a month, that is, June 2008.

These cases fully reflected that government departments fail to set a good example. Not to mention the cases of private contractors, even the HD carries out its internal work in a lax manner, disregarding the lives of workers. If they too are acting in a slipshod manner, how can I trust government departments then? How can we rely on the LD to monitor the works projects of large consortia? If government departments act in such a "chicken" and "quailed" manner, how will they not be "the quail among quails" in the face of large consortia?

President, many regions and countries around the world support capitalism, but only the Hong Kong Government adopts the stance of "big market, small government", only it adopts the policies and mindsets that large consortia are "all-powerful", that money is "all-powerful" and functional constituencies are "all-powerful". Members of functional constituencies swell their pockets by siding with the large consortia to gain advantages, such as becoming non-executive directors who are paid several hundred thousands or more than a million dollars a year, and they need to do nothing but only attending two meetings. With the transfer of interest under these circumstances, the rights and interest of workers in general will eventually be undermined.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr IP Wai-ming, you may now speak on Mr LEE Cheuk-yan's amendment. You may speak for up to five minutes.

**MR IP WAI-MING** (in Cantonese): President, I am glad that a number of colleagues have joined the discussion on this motion today. As for the amendment by Mr LEE Cheuk-yan, particularly part (a) of it, it is about increasing penalties and protection for self-employed persons. But on the part relating to self-employed persons — Mr LEE Cheuk-yan is in the Chamber now — I consider it a bit strange. For instance, following the proposed substantial increase of the \$21,000 income cap, it comes to the inclusion of self-employed persons and all employees who sustain injuries when travelling to and from work under the coverage of the Employees' Compensation Ordinance (ECO). I think this part of the amendment probably includes three proposals. That is to say, Mr LEE Cheuk-yan proposes that the income cap of \$21,000 should be increased substantially, and that self-employed persons and employees sustaining injuries when travelling to and from work should be put under the coverage of compensation. This is only my guess, for I do not understand clearly the meaning of the amendment as it is worded. No matter how, this will put persons under "bogus self-employment" and self-employed persons under a single

employer under the coverage of the ECO, and the FTU supports this. My colleagues have indicated earlier that the FTU will support this amendment.

President, I so submit.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, once again I wish to thank Mr IP Wai-ming for proposing the motion and Mr LEE Cheuk-yan for his amendment. Many Members have given their valuable, insightful and concrete views on the subject, and now I would like to make a brief overall response.

President, when I spoke for the first time, I said that the Government attached great importance to the occupation safety and health of employees, especially the issue of compensation for those who died or were injured at work. I wish to stress that this is never any political slogan or nice talk, but the policy objective of the Government, particularly that of the Labour and Welfare Bureau. There is a pathetic story behind each and every industrial accident and as every Member has said, there is a family behind every employee. I have often said on public occasions that a total loss situation is involved in every industrial accident and no party is a winner. The employer loses, productivity is affected, and the reputation of the employer is tarnished. For the employee, apart from physical injury, loss of life may be caused in serious cases. A person's living and his family are affected. Hence no one is a winner. So we really hope that industrial accidents can be reduced by all means.

Let me respond briefly to Members' speeches made earlier. I would like to talk about the idea of self-regulation first. This is a question raised by Mr IP earlier. I wish to stress again that there is some misunderstanding on the part of Members that self-regulation will result in the situation of complete chaos and employers are free to do whatever they like. This is a misunderstanding. I stress that in a bid to keep the strategies and systems of occupational safety and health abreast of the times, the Government has caused a change to the legal framework from listing the minimum safety standards in detail as I have said earlier to prescriptive monitoring and encouraging enterprises to practise self-regulation, it being two-pronged approach. We believe that owing to the

limitations of prescriptive laws, a legal framework which contains requirements made on duty holders to practise safety management under target-oriented principles should be more effective in coping with the developments of the times and in improving the occupational safety and health situation.

It is with this major principle in mind that in recent years the Labour Department (LD) has caused the enactment of many pieces of legislation on occupational safety and health. This shows that we are really progressing with the times. If Members would recall it, in 1997 we introduced a new law on occupational safety and health. We require employers to make an assessment of the risks in their workplaces while taking into account the unique conditions and dangers involved. They should adopt measures that are effective, practical and workable to remove or lower such risks in accordance with the findings of such an assessment. This will hopefully safeguard the occupational safety and health of employees. I have just said that this is definitely not leaving the employers free from any control. As a matter of fact, they are bound by law. Members all know that if employers contravene the general duties provisions, they are liable to a maximum penalty of a fine of \$500,000 and a prison term of six months.

The LD works through inspections and enforcement actions to make sure that stakeholders will fulfil their obligation. I fully support of the view that laws should be enforced and they would be meaningless if they are not enforced. So we are doing a lot in inspections and regulation. From the practical perspective, the duty holders should fulfil their obligation of managing the risks soundly. Not only is this the best way to protect the safety and health of employees but it is also the best guarantee to avoid delays and losses caused by accidents. I cited earlier figures from the past decade to show that figures of accidents and incidents in workplaces have been improving all along, evident that our policy has been effective. However, we will not be complacent and we will work extra hard and do a good job of it.

With respect to monitoring and inspection, we agree that these must be done solemnly and seriously. As I have just said, we carry out about 110 000 inspections every year and in the last year, that is, 2009, we issued 30 559 warnings, 1 230 improvement notices and 147 suspension notices. As I have said earlier, these suspension notices are a deadly weapon. It is the best way to penalize employers when work and production are made to stop. Also, 1 887

prosecutions were instituted. With respect to the second point in Mr IP Wai-ming's motion, that is, making public items in respect of which prosecutions have been instituted by the LD, we will give it serious consideration.

Work at height is an issue of great concern to Members and this is also a grave problem. We have done a lot in this respect lately. As Members may be aware, the law stipulates comprehensive regulation of high-risk work, and put simply, there are provisions on such work as that involves gondolas, tower cranes and even container terminals. In addition to the series of provisions in law that provide comprehensive protection, as I mentioned just now, we will stay in close contact with the relevant sectors and trade unions, and we will examine the relevant laws from time to time and amend them when necessary.

Besides legislation and enforcement, publicity and promotion are similarly important because industrial accidents are often related to people's awareness. Work is being done to improve the attitude of employers, employees and the public towards occupational safety and health as well as enhancing their awareness of it. We will try to change their mentality of doing things only for convenience's sake and having a dislike for trouble. This is especially true when we see that fatal accidents are caused in minor works and those involving scaffolds. This is because people would tend to be careless and just want to avoid trouble. We will work together with stakeholders and partner organizations to do more in this respect and strike home the message. We will also work through incentives, publicity and charters.

There are many publicity channels open to the LD, as Members know clearly. We have printed many kinds of leaflets and other publications on occupational safety and health and they number more than 400 kinds. There are also introductions to laws, codes of practice, practice notes, safety guides and accident analyses, and so on. We have analysed certain fatal accident cases so that people can learn a lesson from them and know what actions should be avoided.

It is also very important to provide suitable training. We have made matching efforts in this regard. Members should recall that in 1999 the so-called Green Cards were introduced and that means compulsory training in occupational safety and health and other basic safety training. All people who work in high-risk places like construction sites and container terminals must hold Green Cards or else they are not allowed to work there. Besides, for some other high-risk work which involves confined spaces and gas welding, and work



involving gondolas, cranes and loadshifting machines, workers must receive compulsory safety training recognized by the Commissioner of Labour and obtain certificates of passes before they are allowed to operate such equipment.

In this regard, we also work closely with the Occupational Safety and Health Council. We offer assistance to small and medium enterprise (SME) contractors to buy safety equipment and improve the work environment. We offer subsidies to SMEs to purchase fall prevention equipment and safety ladders for work at height; and cut prevention gloves and anti-skid shoes for the catering industry. We also subsidize the provision of training to the staff concerned.

In all, with respect to the request made in the motion to motivate employers to shoulder the responsibility for safeguarding employees' occupational safety and health, allocating resources for employees' training and providing facilities and a work environment that safeguard employees' occupational safety and health, these are consistent with the government policy. Our goal is the same as that of Members and we will work hard to do better.

Mr LEE Cheuk-yan made some suggestions earlier. I responded to many of his suggestions when I spoke for the first time, so I would not make any repetition other than adding a few points.

His first suggestion relates to a request for policy revision, increasing the penalties on law-breaking employers, reviewing the safety standards in the relevant laws, and formulating a comprehensive policy on occupational safety and health education. The Government will examine the existing policy and regulations continuously, and we will continue to work in this direction.

Mr LEE mentioned in particular the requirement that developers should be required to designate a certain percentage of the works cost as the works safety expenses. I would like to add a number of points in this connection. The proposal is actually similar to the Pay for Safety Scheme implemented by the Government. Currently, this Scheme is implemented in public works projects and public housing projects, under which contractors are required to include safety items in their tenders. If the contractors succeed in implementing these safety items, the Government will pay for such costs separately to the contractors. If they fail, they will not be paid for these items. Some private developers have

also introduced such arrangements in their construction projects on a voluntary basis. However, if legislation were enacted on this, we think that some problems would arise. Why? Because the liabilities of all parties concerned must be clearly defined in the law, such as those for developers and contractors. This is especially important because under the current legislation, the responsibility for safeguarding the occupational safety and health of workers lies with the contractors. Once legislation on this is enacted, the responsibility will be extended to the developers. It would hence be difficult to define the liabilities of all the parties concerned, and some difficulty would also be met in enforcement. Also, the problems mentioned just now will also be caused when developers are required to shoulder the responsibility for safe execution of works.

Currently, the achievement made in safety records in public works and public housing works is not attributed to any single measure enforced. Apart from the Pay for Safety Scheme which certainly will contribute a part, we also owe this achievement to the many other measures introduced, such as the Independent Safety Audit Scheme and a disciplinary sanction mechanism. These will monitor propriety of the safety management system of the contractor concerned and its implementation. Contractors who have problems in safety performance are liable to disciplinary sanction.

Apart from these, I mentioned just now that some private developers have introduced similar arrangements at their own initiative. There are also other organizations which adopt other methods to encourage contractors to raise the safety level of their construction projects, and the results have been good. We will work in this direction to foster co-operation between developers and contractors in the private sector and pool resources to upgrade the safety level on the construction sites.

As for the suggestion on the reporting of work injuries and occupational diseases and the employees' compensation system, the existing Employees' Compensation Ordinance (ECO) clearly provides that employers have the responsibility to report accidents. When an employer knows that an industrial accident has occurred or an employee suffers from occupational diseases listed in the ECO, he is obliged to report to the Commissioner of Labour regardless of whether such accident or disease will lead to any liability in compensation payment.

If employees are in doubt, they may contact the Employees' Compensation Division of the LD to check if their employers have made the report. The LD will certainly follow up the case with the employers concerned and assist the employees to report their cases. According to the existing ECO, if an employer does not report the work injury or occupational disease of his employee to the Commissioner of Labour without any reasonable excuse and within the prescribed period of time, he is liable to a maximum fine of \$50,000 upon conviction.

As for employees' compensation, the system hinges on the rights and interests of employees as well as the affordability of employers. We hold that there is no need to conduct any major review or introduce any change to the existing system. The most desirable approach is to act in a prudent and practical manner and review specific items or areas when necessary.

In the speeches Mr IP Wai-ming and Dr PAN Pey-chyou made earlier, especially that by Dr PAN, concern was expressed about the issue of mental impairment. I would now talk a little bit on that. Under the existing system, if an employee suffered injuries at work, including mental impairment, in the course of employment, and if there was sufficient proof that this impairment was related to the accident and would lead to partial or permanent incapacity of the employee concerned, when calculation is made for compensation payment, this fact will be considered in calculating the compensation payable. In other words, cases of mental impairment caused by work incidents are already protected by existing laws. In fact, the LD has handled work injury compensation cases of mental impairment.

Let me cite two live and recent examples to illustrate this. In the first example, an employee was injured in the fourth finger of his left hand while rolling a reel of cable measuring 2 m by 1 m. This caused him to lose the first joint of the finger. He suffered from post-trauma stress disorder. Another employee felt sick while inhaling smoke and fume as he was discharging his duties. This caused discomfort in his eyes and insomnia, leading to post-trauma stress disorder. These two employees had to undergo psychiatric treatment. The Employees' Compensation (Ordinary Assessment) Board confirmed the existence of post-trauma stress in these two employees. When the LD determined the compensation amount in these two work injury cases, the factors of the sick leave taken and the permanent incapacity caused by mental impairment were considered. Hence compensation was awarded in these two

cases pursuant to the ECO on account of the physical injury and mental impairment sustained.

Dr PAN, from this it can be seen that the existing ECO already has a mechanism built in to handle cases of mental impairment caused by work incidents. However, there are differences in the actual details of each work injury case. In view of this, Schedule 1 of the ECO has listed the most common kinds of injury and the percentage of the permanent loss of ability to earn an income. The ECO also provides that for cases of injury not listed in Schedule 1, the Employees' Compensation (Ordinary Assessment) Board will make reference to Schedule 1 and when necessary, also refer to certain well-established assessment guidelines in other countries.

When the LD assists injured employees in medical clearance, that is, when the employee concerned goes to the Occupational Medicine Division of the LD, the LD will see if the employee has sustained any mental impairment as a result of the work accident and needs psychiatric treatment, and the LD will arrange for a relevant assessment for that employee to determine the compensation amount. The LD will do its best to provide assistance and advice to the employer and employee concerned and keep a close watch on similar cases.

In respect of occupational diseases, as I said in my first speech, when the LD considers whether or not to classify an occupational disease as one which is entitled for compensation under labour laws, it will use a professional and objective approach and make reference to relevant criteria of the International Labour Organization as well as factors like the incidence pattern of diseases in the local context, and so on.

I wish to stress that we will remain open in considering all specific suggestions to improve the ECO and we will continue to pay attention to the situation in society and listen to views from all quarters, including those from Members. We will review the situation in a timely manner and make improvements in the hope that a reasonable balance can be struck between protecting employees' rights and the affordability of employers.

We understand the idea that prevention is better than cure and we will apply this idea to the prevention of work injuries and occupational diseases. Let me cite an example. In order to further improve and promote work in the

prevention of occupational diseases, the LD adopted in 2008 a new perspective and produced a new education audio-visual kit on the prevention of occupational diseases. The kit introduces a brand-new strategy to prevent various kinds of occupational diseases. The kit was launched in 2009 in collaboration with the trade committees on occupational safety and health under the Occupational Safety and Health Council, employers' associations, staff unions and stakeholders in various communities. Through these promotional activities, we will continue to enhance the general knowledge of employers and employees in the prevention of occupational diseases on a sustained basis.

Earlier on, Mr IP talked about his views on the setting up of a central employees' compensation fund. I talked about this idea already in the previous speech. Now I would like to reiterate a few points. Hong Kong has all along been using the private-sector mode, that is, private institutions will run the insurance market for employees' compensation. This mode has been operating very well and under the existing system of employees' compensation, employees who are injured or have died are entitled to reasonable rights and benefits and full protection as appropriate.

Members may recall that in order to ensure that employers of all trades and industries, especially those of a high risk, can take out employment insurance. The insurance sector launched an employees' compensation joint insurance scheme on 1 May 2007 with the aim of offering a backup market for employees' compensation insurance. The scheme has been operating well.

From this it can be seen that the existing employees' compensation insurance system can ensure that all employers can take out employees' compensation insurance in the insurance market.

Although a central employees' compensation system has merits, we should consider carefully the problems that may be brought about by such a system. For example, in the absence of risk diversification and complementary income from other types of insurance business, the scheme is prone to financial difficulties, hence the great pressure for substantial increases in premiums. In addition, there are currently about 60 insurance companies which are authorized to offer employees' compensation insurance. Competition is hence fierce. As employees' compensation accounts for a large proportion of the general insurance business, if a central fund is used in the place of the private sector market, it will

not only deal a heavy blow to insurance companies that underwrite employees' compensation insurance but may cause serious impacts on all insurance companies and their staff engaged in general insurance business.

We think that the existing employees' compensation system is effective and better suits the local conditions, we do not think any major change should be made to it. The Government will maintain close contact with the relevant stakeholders and institutions in order to ensure full protection of employees' rights and interests.

Some Members have expressed concern about the operation of the Voluntary Rehabilitation Programme. I would like to say a few words in response.

Under the Voluntary Rehabilitation Programme implemented by the LD currently, insurance companies may provide private rehabilitative care service as appropriate and free of charge to employees who have sustained work injuries. This Programme is entirely voluntary in nature in that they are free to join it. I would like to stress that because of this voluntary nature, they can decide for themselves whether or not to accept the invitation from insurance companies. If they encounter difficulties in the course of participating in the Programme, they can withdraw from it at any time. The Programme is just another option for employees injured at work so that they can use the medical check-up and treatment services of private sector medical and rehabilitation institutions free of charge. This will enable these employees to recover early and return to their posts. Participation in the Programme will not affect the entitlements of the participants under the ECO. This point is very important, and that means no compromise will be made to prejudice the rights and interests of the employees.

As for the employment policy mentioned by Mr WONG Kwok-hing regarding safety officers on construction sites, we have examined the issue in great detail. We think that in the entire process, the facts are examined in an objective manner. The registered safety officers in the construction industry are presently hired by the contractors. Some people would question the independent nature of this kind of employment relationship and other people have suggested that these officers be hired by the LD. We have looked into the issue and found

that there are certain problems. I would give a detailed account on that issue in the meeting of the Manpower Panel tomorrow.

I would like to say a few words on the issue of independence. The duty of a registered safety officer on a construction site is to help the contractor comply with the requirements of occupational safety and health laws and promote the safety and health of people working on the construction site. The contractor shall supervise the safety officer in the latter's discharge of his duties. The contractor is also to provide all necessary assistance, equipment, facilities and information to the officer. So in the final analysis, it is the contractor who has to bear the responsibility. In other words, the responsibility for safety on the construction site rests with the contractor and this is indisputable.

As the environment of a construction site is very complicated, in order to effectively ensure safety, the effort of a safety officer alone is not enough. There has to be a good safety management system so that all staff can work with one heart to promote safety. Moreover, there should be a good supervisory system in place.

Our view is that under the existing laws, the safety officers have already done their part and played their role. If it is required that the LD should employ them, there would be some problems. It is because it is not proper for an enforcement agency to hire, assign or even directly supervise the work of safety officers on the construction sites as this will lead to confusion in the roles and hence enforcement will be affected. However, we appreciate Members' concern and we will liaise more with the contractors and educate them so that they can be better aware of their responsibilities. In this way, the system can be hoped to improve and its operation will not be affected simply by certain individual events. I will discuss this issue in greater detail in the relevant panel meeting tomorrow.

President, I wish to emphasize that the Government is very much concerned about the occupational safety and health of employees at work as well as the rights and interests of employees injured in the course of work. We will continue to examine our policy on occupational safety and health and conduct reviews of the relevant laws in the light of changing social conditions and economic development in order to cope with changes in society, the economy and technology. This is very important. Apart from increasing the vigour of our

enforcement actions, we will put in more efforts in publicity and education and maintain close contact with the relevant partner institutions.

Lastly, I wish to thank Mr IP once again for proposing this motion and Mr LEE for his amendment. I also hope that all employees in Hong Kong can go to work happily and return home from work safe and sound.

Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the amendment, moved by Mr LEE Cheuk-yan to Mr IP Wai-ming's motion, be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan has claimed a division. The division bell will ring for 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 results will be displayed.



Functional Constituencies:

Mr CHEUNG Man-kwong, Ms LI Fung-ying, Dr Joseph LEE, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Dr PAN Pey-chyou voted for the amendment.

Dr Raymond HO, Dr Philip WONG, Mr Abraham SHEK, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por and Dr Samson TAM voted against the amendment.

Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong and Mr IP Kwok-him abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man vote for the amendment.

Dr Priscilla LEUNG and Mrs Regina IP voted against the amendment.

Mr CHAN Kam-lam, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, six were in favour of the amendment, seven against it and nine abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 19 were in favour of the amendment, two against it and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr IP Wai-ming, you may now reply and you have two minutes 11 seconds.

**MR IP WAI-MING** (in Cantonese): President, I am very glad that 18 Members have spoken on this question today. Most Honourable colleagues have expressed concern about occupational safety and health and the importance of occupational safety to workers. In response to our remarks, the Secretary has also put forward many ideas. Frankly, however, they are all hackneyed ideas to me. Over the years, the Secretary has given the same reply plenty of times, but the crux of the problem is whether the existing Employees' Compensation Ordinance, which has been in place for over five decades — 57 to 58 years, can still meet the needs nowadays. I hope the Government will face this problem squarely and conduct a comprehensive review of it.

As trade unionists, we believe in the power of organization more than legislation. We have repeatedly told the Government that very often when employees complain against their employers, the employers would say they have complied with the legislation without breaching any part of it. This has made us query whether the self-regulatory approach is as effective as the Government has claimed. Very often, employers in Hong Kong would not take actions that are not required under the law. As Ms LI said, we have to impose restrictions on employers who disregard the safety of workers to make them take proper responsibilities. The financial and psychological stress of workers who have sustained work injuries can hardly be understood by others. They are indeed in great agony. Secretary, you may ask workers who have suffered work injuries about the difficulties they have experienced in the process of making compensation claims. You should listen to their views. Thus, we would like to

reiterate that the authorities should set up a central employees' compensation fund and establish a sound compensation system for workers. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr IP Wai-ming be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Andrew LEUNG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew LEUNG has claimed a division. The division bell will ring for three minutes.

**PRESIDENT** (in Cantonese): Will Members please proceed to vote.

**PRESIDENT** (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr CHEUNG Man-kwong, Mr WONG Yung-kan, Ms LI Fung-ying, Dr Joseph LEE, Mr WONG Ting-kwong, Mr CHEUNG Kwok-che, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the motion.

Mr CHAN Kin-por voted against the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Dr LAM Tai-fai and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Cyd HO, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Dr Priscilla LEUNG abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 22 were present, nine were in favour of the motion, one against it and 12 abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 24 were in favour of the motion and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

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

**MR ALBERT CHAN** (in Cantonese): Functional constituencies, shameless!

**PRESIDENT** (in Cantonese): Mr Albert CHAN, please leave the Chamber immediately.

**MR ALBERT CHAN** (in Cantonese): Functional constituencies, shameless!

(Mr Albert CHAN continued to shout loudly while turning around to leave the Chamber)

**PRESIDENT** (in Cantonese): Second motion. Concern about the quality and regulation of proprietary Chinese medicines

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

I now call upon Dr Joseph LEE to speak and move his motion.

## **CONCERN ABOUT THE QUALITY AND REGULATION OF PROPRIETARY CHINESE MEDICINES**

**DR JOSEPH LEE** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, in the past few months starting from last year, there were several incidents in Hong Kong in which certain proprietary Chinese medicines (pCms) were found problematic. Some pCms were found containing forbidden or unregistered western drugs, while some were found containing toxic substances or toxic Chinese herbal medicines. Users fell sick after taking the medicines. Fortunately, no case of death or illness has so far been reported. At present, the pCms in question that have aroused most attention are the strong painkiller pills of a certain brand, the Po Chai Pills of a century-old well-established brand, and the bone strengthening pills in a recent case. These examples well expose the

loopholes in the monitoring of and policy on pCms in Hong Kong. These incidents occur because the Government fails to exercise proper regulation and the Government should make improvements.

Actually, upon the enactment of the Chinese Medicine Ordinance (the Ordinance) in 1999, the Government claimed that it would enforce the Ordinance and started working on the registration of pCm manufacturers and pCms. Though the work concerned has started since 2003, regrettably, for various reasons, the registration of pCm manufactures has so far been carried out in the form of granting "transitional certificates". After a lapse of nearly ten years — the Secretary is in the Chamber today and in his reply to the third oral question, he said that of the present 450 odd local manufacturers of pCms, two third of them are still holding a transitional certificate without getting formal registration, only 160 manufacturers have been granted a formal licence. A decade has passed but the situation remains the same. We can see that there are significant inadequacies on the part of the authorities in regulating the registration of pCm manufactures. If pCm manufactures are only holding transitional certificates, how can the public rest assured that their drugs are safe? This is the first point.

Second, it is about the registration of pCms. Apart from the licensing system for manufactures, the registration of pCms is currently subject to section 119 of the Ordinance. But for unknown reasons, this section has not yet been put into effect to date. A majority of pCms, as mentioned by the Secretary in his reply to the relevant oral question, some 9 120 types of pCms in Hong Kong have only been granted temporary or transitional registration. In other words, section 119 of the Ordinance, which regulates the registration of pCms, is only a regulation on paper and has not been properly implemented.

In consideration of the two major reasons mentioned above, that is, the problems with manufacturers and the failure to implement properly the registration system for pCms, how can the Government monitor the thousands of pCms available on the market? Obviously, the Government has failed to learn from the painful experience of the western medicine incidents that occurred last year and has not stepped up its effort to carry out the work as required. For the

aforesaid reasons, I wish to remind the Government and draw the attention of the public, through the motion debate today, that there are serious problems with the registration system for pCm manufactures and pCms. Moreover, there are significant loopholes in policies and enforcement, I hope the Government will step up its efforts to implement properly the work required. Otherwise, the authorities can only rely on others to reveal the problems. Take the Po Chai Pills incident as an example. Singapore was the first country to ban the import of the Pills. Then Taiwan also pointed out that the Pills were problematic. Only by then the authorities in Hong Kong became aware of the situation and confirmed, after laboratory tests, that there were problems with the Pills. Fortunately, people who have taken the Pills in question have not suffered from serious conditions. If people got sick or even died, I believe the Government could in no way escape the blame. I think the Government should step up its effort in regulation and inspection, and revise the policies to enforce the existing laws. In this connection, I would like to put forth the following proposals.

First, the Government should finalize the schedule for implementing the registration of pCms and the penalty imposed. I understand that the Secretary mentioned this morning that this would be implemented by the end of this year. However, since the Ordinance has been enacted for ten years by now, is it truly practicable that it can be put into full implementation by the end of this year, which is only six months from now? As I pointed out earlier, the Ordinance has been enacted for a decade, but the registration requirements for pCms and pCm manufacturers exist in name only. No regulation has actually been imposed and the relevant legislation has not been enforced. Should any problems arise, punishment can only be imposed for violating existing guidelines, but the punishment has no legal effects. Even if the authorities intend to impose punishment or penalties, they may not find the legislation that they can invoke, which is the greatest loophole. I hope the Secretary will, after listening to the views of Members, discuss with his colleagues, particularly colleagues from the Department of Health (DH). A specific timetable and measures on implementing the registration system should be drawn up, so that the current several hundreds of pCm manufacturers, which account for two-thirds of the

total, will obtain formal registration and be subject to regulation. This is the first point.

Second, regarding the some 9 000 pCms that have only been transitionally registered, should they be put under standard and formal registration so as to put the public at ease? If this situation is allowed to persist, the introduction of new policies and legislation by the end of this year will not help improve the situation in the absence of specific policies. Since some manufacturing premises are usually located in old tenement buildings, factory buildings, or even some unknown places, we worry that the hygiene condition there are relatively poor. As seen last year in incidents involving pharmaceutical companies of western medicines, some manufacturing premises are located in factory buildings and people may carry out packaging work outside the premises. Patients taking the pharmaceutical products concerned are exposed to unknown risks. Serious problems will arise if the manufacturers are not formally registered. I believe the Government is duty-bound to monitor the registration of pCm manufacturers and pCms, so that the legislation will come into force. It is unacceptable that the Government has not dealt with the work seriously after a decade or so.

In fact, under the transitional arrangement for the registration of pCm manufacturers and pCms, the absence of monitoring disallows us to know the origins, registration conditions and batch numbers of certain pCms. Besides, the production environment of pCm manufacturers, which have only obtained transitional registration, is extremely poor. If there is any problem with their products, the causes can hardly be traced. As such, the public is exposed to enormous harm and risk. Hence, by the end of this year, it is necessary for the Government to announce concurrently the specific measures for enforcing the legislation that has not yet been implemented, so as to ensure that pCms available for sale are safe.

Moreover, I think the Government should enhance its monitoring role. Apart from implementing the registration system, the Government is also responsible for monitoring pCms or pCm manufacturers. It seems that the



Government has failed to learn a lesson from the incidents on western medicines last year. After these incidents, the authorities conducted a comprehensive review and put forth more than 40 recommendations on western medicines available on the market. However, the people of Hong Kong do not just take western medicines, many of them also take pCms, and if the quality of pCms is not guaranteed, many problems will arise. At present, the authorities rely on self-discipline of pCm manufacturers. We often make jokes about "manufacturing drugs with conscience". But if the manufacturers have no conscience, and since we have no way to know that and there is no monitoring, the consequences will be serious. So, what should the Government do? The Government should step up its monitoring efforts and help the public learn more about pCms, so that the public will have more confidence in buying pCms. At the same time, I believe that the Government should not adopt an armchair strategy in its monitoring work by merely examining the documents submitted by the manufacturers. It is vital to enhance the inspections and sample testing. At present, the DH conducts sample testing on some 2 700 types of pCms every year, but in considering that there are several thousands and even tens of thousands of pCms in the market, this approach is inadequate in ensuring the safety of pCms. Moreover, the registration system is not yet well-established. If the authorities do not conduct large scale sample testing on a regular basis, how can adequate protection be provided? Hence, I hope the Government can enhance its monitoring role.

The third point I would like to raise relates to the provision of additional resources. Certainly, the budget this year has provided additional funding to the DH for conducting sample testing on medicines and for recruiting more staff, but we do not know whether the funds will be spent on testing proprietary western medicines or pCms. The authorities have now only set aside \$33.5 million for adding 12 posts related to laboratory work. Will this be adequate to rectify the existing problems involving proprietary western medicines and pCms? If it is inadequate, I believe the Government should enhance its efforts to ensure that the funds will be spent on front-line work and can adequately address the situation. Sample testing should not be focused on proprietary western medicines only. The funding should also enable the DH or departments concerned to carry out

inspections, sample testing and regulatory work stipulated in the legislation on pCms, with the objective of ensuring that pCms or pCm manufacturers can meet the required standard and criteria for registration.

The fourth point is to assist the trade to adopt the Good Manufacturing Practices (GMP). Surely, this issue is controversial. After the incidents on western medicines, we all understand the importance of adopting the GMP as the standard. If all pCm manufacturers, particularly those with transitional registration, are required to comply with the GMP right away, it will surely cause difficulties. The trade claims that 70% to 80% of pCm manufacturers will have to cease business consequently. However, this cannot be used as an excuse. I believe the Government is duty-bound to discuss with the trade to draw up the GMP applicable to Chinese medicines, for the trade has voiced the opinion that the GMP for western medicines is different from that for Chinese medicines. The Government should discuss with the trade and propose a set of GMP suitable for monitoring pCms, in order to ensure that pCm manufacturers attain certain standards and meet certain criteria for the registration of pCms. This is a win-win situation. But if the GMP system is applied across the board, manufacturers may be forced to cease business. The Government may not want to see this happen and the implementation of the regulation will be delayed again for several years. This situation is not undesirable to the public. Surely, there are also views that the Government should put in resources to help manufacturers comply with the GMP. But, in my view, public money should be spent prudently, and the proposal should be carefully examined. I do not oppose the Government using public money to assist the trade to attain the GMP standard, but the assistance may be provided in the form of interest-free loans instead of non-repayable subsidies, for public money spent should be paid back. Under this circumstance, I believe manufacturers have the responsibility to use public money properly to attain the GMP standard, so that pCm manufacturers and the medicines manufactured will meet the required standard and be eligible for registration. The safety of the people of Hong Kong will thereby be safeguarded, and public money will not be misused by the Government.

The last point is to step up public education. At present, even for some well-established brands in which we have confidence, there may be problems, such as the pharmaceutical products of the century-old well-established brand mentioned by me earlier. This situation has caused a crisis of confidence, and

the public are facing greater risk in purchasing pCms. Whenever these incidents occur, the public feel helpless, for they do not know what has happened. Since medicines available on the market have been approved by the DH or the Government, the public will consider them safe. But may I ask the Secretary whether he understands the code printed on the package of pCm? Take the code HKP printed on the package of pCm as an example. It does not refer to the Hong Kong Police, and what does it stand for? What about HKNT? Does it mean the medicines have been registered or not yet registered? Is the registration provisional or what? The Secretary may not necessarily know, let alone us. If I buy a certain brand of medicine for relieving joint pain in the market, I will see the code HKNT, which I may presume it is referring to Hong Kong New Territories. I can in no way know whether the medicine has been registered or not. In view of the confusion, I believe the authorities should, through various channels, step up its effort in educating the public on how to distinguish whether the pCms available on the market are formally registered or provisionally registered. Have the ingredients been tested and confirmed to be safe? Actually, what it needs to do is simple. The authorities only need to upload the relevant data and information onto the relevant websites for public access. I believe this will encourage the public to take the initiative to check the relevant information, which will foster their confidence in purchasing pCms. Of course, the Government should at the same time request pCm manufacturers to reveal to the public the drug labels and ingredient codes, and so on. This will increase the confidence and knowledge of the public in purchasing pCms, which will reduce the risk of taking unregistered drugs or drugs from unknown origins. I believe the Government and the DH should be able to implement this arrangement, it should release the relevant information to the public through their websites as soon as possible for the protection of the public.

Finally, I notice that the Secretary has also said today that the system in Hong Kong is quite satisfactory, and he considers the practices adopted in Singapore and Taiwan, which Members have mentioned, not comprehensive. However, according to our information, the GMP for pCms has been implemented in Taiwan since 2005. Manufacturers that fail to comply with the GMP standard are prohibited from producing Chinese medicines. In 2006, an import ban was imposed on Po Chai Pills because the manufacturer failed to obtain the GMP certification. In Singapore, a regulation has been imposed years

ago that the import of unregistered pCms for sale is completely prohibited. These measures offer protection to the people of Singapore and Taiwan, for it prevents the import of substandard or unregistered proprietary medicines. I believe the Government should learn from the painful experience of the incidents on western medicines that occurred last year. If the authorities want to promote Chinese medicines vigorously in Hong Kong, or if Hong Kong is to develop into a Chinese medicine hub, the regulation of Chinese medicine practitioners, pCms and pCm manufacturers is of great importance. We have to put in great efforts in promoting these works, and I believe the Government is obliged to improve the relevant policies, establish a good system and implement legislation that has not yet been enforced, so as to protect the people of Hong Kong and develop Hong Kong into a secured pCm hub.

President, I so submit.

**Dr Joseph LEE moved the following motion: (Translation)**

"That some proprietary Chinese medicines are recently found to contain ingredients of forbidden drugs and toxic substances, arousing the concern of various sectors and, at the same time, exposing the loopholes in the Government's policy on Chinese medicine as well as the deficiencies of its regulatory system, which have led to problems in the registration system for proprietary Chinese medicines at the present stage and the fact that the quality of proprietary Chinese medicines available on the market cannot be assured, thus posing a threat to the life and health of the public; in view of this, this Council urges that the Government must expeditiously improve the policy on Chinese medicine, strengthen regulation and ensure the quality and safety of proprietary Chinese medicines available on the market, so as to safeguard public health."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Joseph LEE be passed.

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

I will call upon Dr PAN Pey-chyou to speak first, to be followed by Mr WONG Ting-kwong; but no amendments are to be moved at this stage.

**DR PAN PEY-CHYOU** (in Cantonese): President, Chinese medicine is a unique medical system created by our country thousands of years ago. Over the past two centuries or so, western medicine developed by leaps and bounds. Not only is it widely recognized around the world, it has also become the mainstream medicine in most regions. Actually, during this period, the traditional medicines practiced by many races in many parts of the world have disappeared gradually; only our Chinese medicine has continued to stand firm. Not only has it survive, it has also continued to develop and spread to other parts of the world.

At present, Chinese medicine is gaining huge popularity in many western countries. People in many places prefer Chinese medicine treatments when they fall ill and even accept such treatments as acupuncture, massage and so on. Many proprietary Chinese medicines (pCms) are also on sale locally and abroad. We can even find pCms in pharmacies abroad.

The development of pCms in Hong Kong has a long history. As pointed out by Dr Joseph LEE just now, some pCms have a history of more than a century. For a long time, these pCms have been well trusted by people in Hong Kong. When they suffer from some common diseases, they will not immediately go to a doctor; instead they will very often buy some pCms they trust and with proven efficacy for treatment.

The public in general do not know very clearly the ingredients of these pCms. Even though they may see the names of some herbal medicines on the package, they may still not know too much about its ingredients and quantities. However, they feel at ease when taking the medicines because they think since these pCms are permitted by the Government to be sold on the market, they must

be safe. Indeed, many people share this view. However, it has been proved that such thinking is wrong.

Insofar as this incident is concerned, the Government has indeed failed to fulfil its duty in regulating pCms, and this can be traced back to history. To start with, during the colonial period before the reunification, the colonial government had all along been indifferent to Chinese medicine, allowing it to run its own course. Provided that no X-ray machines and western medicines were used by Chinese medicine practitioners, the practitioners were left all alone. Neither would the colonial government care about whether they were registered and where they studied Chinese medicine. The same went to Chinese medicines. The production and sale of these medicines were not subject to any regulation by the Government. It was only after the reunification that the first step was finally taken with the establishment of the Chinese Medicine Council of Hong Kong (CMC).

However, when we think that the Government has finally made progress in regulating Chinese medicines, some ingredients of forbidden western drugs were found in a pCm of a well-established brand and the medicine had to be recalled extensively from the market. It is believed that the pCm in question is taken by the vast majority of the people in Hong Kong since they were young. I am sure I have taken this medicine before and one of its advertising slogans is "no need to be afraid of falling ill". Many people, particularly long-time supporters of this medicine, are shocked by such developments.

What is even more shocking is that this incident was exposed by the government of one of our neighbours. Hong Kong people might still be kept in the dark had this neighbouring government not dutifully conducted tests and found that the pCm in question contained some forbidden western drugs. Our regulatory body, the Department of Health, might still be asleep with peace of mind — like the proud rabbit in the fairy tale — and let things like this happen. The incident has exposed the extremely loose regulation of pCms. We simply have no idea about the prevalence of pCms adulterating with ingredients of forbidden western drugs. We really have no idea at all. I also think that the Government has failed to safeguard the health of Hong Kong people effectively.

What is the root cause of this problem? The problem originates from a transitional arrangement. When the Government established the registration system in 2003, a transitional arrangement was made for pCms due to the uniqueness of this trade. Under the system, Chinese medicine traders who were already in business on or before 3 January 2001 can first apply for a transitional certificate until they are granted a formal licence. At the same time, pCms which were already manufactured, sold and supplied for sale in Hong Kong before 1 March 1999 may also apply for transitional registration.

The transitional arrangement was made having regard to the fact that no regulatory mechanism for the pCm trade was ever put in place before the enactment of the legislation. The issuance of transitional certificates allows Chinese medicine traders who were already in business prior to the enforcement of the legislation to continue operating, without having to wind up their business immediately. In the meantime, improvements should be made with a view to meeting the legislative requirements and receiving a formal licence. The original intention of this arrangement was good, only that no deadline has been set for the so-called transitional arrangement. Hence, it seems that the Government has tacitly consented to the continued manufacturing and selling of some pCms which have not been granted a formal licence and have not attained an accredited level of production.

Under such circumstances, what health protection do the public enjoy? At present, 9 120 types of pCms available on the market are registered on a transitional basis. About 350, or 70%, of the 500 pCm manufacturers are holders of transitional certificates, which means that they have not yet been granted formal licences as required by the law.

An unfortunate incident finally occurred which hurt the pCm trade. In my opinion, the Government must be committed to mending the fold after a sheep is lost. The Government must assist the trade to meet the registration standards gradually and orderly and re-establish the reputation of pCms. I am very pleased to hear the Secretary say this morning that the Government has already had a plan in this regard and the plan will be implemented by the end of this year. It is expected that the targets can be met within two years. This incident actually provides an excellent opportunity for the development of the Chinese medicine testing and certification industry because, during the regulation or production process, the ingredients and contents of the medicines must be tested and clear

standards must be set. In this regard, I believe the testing and certification industry, being one of the six new industries of Hong Kong, stands a good chance for development.

The development of Chinese medicine has remained my concern for a long time. I also have the chances to discuss with practitioners in the trade about their concerns. The general consensus of the trade is that they consider regulation necessary. However, they think that the Government should strengthen its policy to facilitate the development of Chinese medicine because the trade is disorganized owing to the *laissez-faire* approach adopted by the Government for a long period of time in the past. Moreover, most pCm manufacturers adopt a traditional mode of operation, which differ greatly from the modern way of pharmaceutical production. In order to upgrade the production standards, pCm manufacturers must have the support in areas including skills, manpower training, regulation, testing and certification, as well as the integration of treatment and medication. In this regard, solely relying on individual effort is not going to bear fruit. Moreover, the existing CMC is responsible for regulation only; its role in developing Chinese medicine is limited. Hence, the trade has proposed the establishment of a committee on the development of Chinese medicine to co-ordinate the overall development of Chinese medicine. In this way, individuals and various trades can make concerted efforts under a unified framework to promote the development of Chinese medicine. This is why I propose an amendment to the original motion moved by Dr Joseph LEE today.

I so submit.

**MR WONG TING-KWONG** (in Cantonese): President, proprietary Chinese medicines (pCms) are generally trusted in our Chinese society. Traditionally, pCms with different prescriptions are available in the community for the treatment of motion sickness, diarrhea, vomiting, stomach-ache, spraining and straining, swelling and poisoning, sores and even colds, or for strengthening the physique after serious illnesses. However, due to various reasons, the medicines manufactured by some licenced pCm manufacturers do not necessarily offer quality assurance and attain the standard of Good Manufacturing Practices (GMP).



The amendment proposed by me today to Dr Joseph LEE's motion pinpoints the existing problems with the pCm trade. I will also discuss the inadequate support for pharmaceutical product testing and research and development.

The enormous gap between the licensing standards for pCm manufacturers and western pharmaceutical companies reflects the practical problems currently faced by the trade. When Chinese medicine was first regulated, there were already a number of pCm manufacturers of different scales in Hong Kong. While some of them are major enterprises, most of them are small scale family-run cottage factories, which are predominantly small enterprises. Over the past decade, Chinese medicine was brought into the regulatory ambit. Small manufacturers find it difficult to meet the numerous requirements imposed by the licensing authorities. It is estimated by the trade that 70% to 80% of pCm manufacturers will be forced out of business should the licensing conditions for pCm manufacturers be upgraded to the GMP standard in one go. On the other hand, the Government has no special policy or measures to assist these small family-run cottage factories to upgrade their manufacturing premises. Under such circumstances, further attempts to industrialize and promote pCms will definitely be impeded.

Furthermore, pCms must meet safety, quality and efficacy standards for registration purposes. Basically, pCms are required to undergo a number of laboratory tests. Although a number of laboratories in Hong Kong are capable of conducting laboratory tests on pCms, the trade points out that certain requirements laid down by the Government for laboratory tests are too onerous. It was mentioned by the Hong Kong Chinese Prepared Medicine Traders Association in a letter to the Panel on Commerce and Industry in 2008 that the Department of Health would require pCm manufacturers to submit quality testing information on various types of pCms in 2009, including the quality standard for "assay" and its laboratory report.

According to the trade, the ingredients of pCms are extremely complex, particularly so for certain pCms prepared from compound prescriptions and secret prescriptions. Technically, it is difficult to pick an appropriate, single chemical ingredient for many products as the indicator for "assay" tests. In addition, neither the Chinese Pharmacopoeia and National Standards nor places such as Taiwan, Macao, Singapore, Malaysia and even Europe and the United States have stipulated comprehensive requirements for conducting similar assay tests on

Chinese medicine products. Furthermore, as there is no unified standard for reference, the trade has to explore on its own. It costs about \$40,000 to \$50,000 to complete a quality test on a herbal preparation, with half of the amount to pay for the assay laboratory test. As most pCm manufacturers in Hong Kong produce more than one product, they can hardly afford just to pay for this sum of laboratory expenses.

The authenticity of the origin of herbal medicines is of significant bearing on pCms. Herbal medicines from different origins differ greatly in efficacy. Hence, raw material control is also a key issue which is difficult to tackle. The DAB holds that, in view of this historical problem, it is not the appropriate time to mandatorily require all manufacturers to attain the GMP standard as a licensing condition. However, in the long run, pCms must comply with the GMP standard if they are to further develop and break into the international market. Therefore, it is necessary for the Government to adopt some measures, such as skills training, capital support (I mean providing loans), and so on, to assist the trade in upgrading their plants and equipments and the safety standards of their products, with a view to complying with the certification standards.

The Hong Kong Council for Testing and Certification (HKCTC) established last year submitted a report to the Chief Executive in end-March this year on the future development of the trade. In the report, it is proposed to promote testing and certification services for four trades, including Chinese medicine, to create a better opportunity for development. The HKCTC has also proposed assisting the testing and certification industry in upgrading its scale and capacity so as to support the registration of pCms and meet the rising demands for testing and certification services. The benefit of accreditation is that the operation and standards of pCm manufacturers can thus be further upgraded according to international standards. Apart from undertaking research work, the Hong Kong Jockey Club Institute of Chinese Medicine also renders support for the development of the testing and certification of Chinese medicine. Meanwhile, the HKCTC will collaborate with the Government Laboratory to share technological knowledge with the trade. I think this is the right direction for development.

Having said that, the HKCTC concedes that Chinese medicine is very complicated and the Chinese medicine trade has a long tradition, thus the difficulties involved should not be underestimated. I hope the Administration

and the HKCTC can overcome these problems and prescribe the right remedy by allocating more resources and complementing each other, so as to support the trade in conducting pharmaceutical product testing and research and development, as well as assist the trade in attaining the standard of the "Good Manufacturing Practice in respect of Proprietary Chinese Medicines" as soon as possible for obtaining the manufacturers' certificates, thereby ensuring the quality and safety of the pCms produced and sold in Hong Kong are up to standard. In doing so, not only can the Government safeguard public health, it can also promote the development of pCms and expand its business opportunities.

With these remarks, President, I support the original motion and various amendments.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, Chinese medicine has a long history and its contributions at the level of primary health care services in Hong Kong are widely recognized by members of the public. In the light of the increasingly common use of Chinese medicine over the past decade or so, the Government has unceasingly strengthened and reinforced the policy on Chinese medicine. Our policy objective encompasses two areas. The first area is, of course, to ensure the safety of Chinese medicine on the market, so as to accord sufficient protection to the health of the public. The other area is to facilitate the development of Chinese medicine and it is also an important area of work in our policy.

As mentioned in the original motion moved by Dr Joseph LEE, it is our priority to ensure the quality and safety of proprietary Chinese medicines (pCms) on the market, so as to protect the health of the public. All along, the Government has devoted efforts to formulating a proper regulatory framework for Chinese medicine in Hong Kong, so as to ensure the safety of Chinese medicine on the market. In July 1999, the Chinese Medicine Ordinance (CMO) came into force. In September the same year, the Chinese Medicine Council of Hong Kong (CMC) was established and its function is to formulate and implement regulatory measures relating to the practice of Chinese medicine practitioners, as well as the use, sale and manufacture of Chinese medicine, while the Department of Health will provide professional and administrative support. Thereafter,

regulatory measures for the registration of Chinese medicine practitioners, the licensing of Chinese medicine traders and the registration of pCms have been implemented one after another. The regulatory regime is undergoing steady development.

In addition to developing and improving the regulatory regime, we also attach great importance to the policy of facilitating the long-term development of Chinese medicine. In this regard, we hold that Hong Kong enjoys great advantages.

First, as mentioned by the several Members who spoke just now, Chinese medicine carries a long history in Hong Kong. We have a number of industry players who have profound knowledge of and substantial experience in Chinese medicine, including a great many well-known Chinese medicine practitioners. At the same time, we can make use of Hong Kong's achievements in the area of scientific research to develop Chinese medicine by research and facilitate the commercialization of the research results in Chinese medicine, so as to achieve greater regularization of pCms. In addition, through our close ties with the Mainland and co-operation with other regions, I believe Hong Kong can become a platform for Chinese medicine to go international.

Dr Joseph LEE expressed concern in his original motion over the registration system for pCms. The registration system for pCms is a newly introduced one. Since the implementation of the system on 17 December 2003, the number of applications for registration received by the Chinese Medicines Board (CMB) of the CMC has far exceeded the estimation, and a certain degree of complexity was involved in processing each application. In addition, in some cases, applicants need to make amendments to or provide supplementary information for their application in the process. For these reasons, it takes time to conduct the vetting and approval procedures.

As at the end of April this year, that is, several weeks ago, the CMB received a total of 16 540 applications for pCm registration, of which 14 100 also made concurrent application for transitional registration. The CMB has already completed the vetting of all applications for transitional registration. It has issued a "Notice of confirmation of transitional registration of pCm" for 9 120 applications and a "Notice of confirmation of (non-transitional) registration

application of pCm" for some 2 100 applications for non-transitional registration in respect of which three acceptable basic test reports (that is, acceptable test reports on heavy metals and toxic element, pesticide residues and microbial limit) had been submitted. Furthermore, 4 610 applications for registration of pCm were rejected for failing to furnish adequate information.

Given that the CMB has completed the vetting of all applications for transitional registration of pCms, the Government plans to fully implement the provisions under the CMO relating to the mandatory registration of pCms by the end of this year. By then, the sale, importation or possession of unregistered pCms in Hong Kong will constitute an offence.

In the transition from no formal regulation of Chinese medicine in the past in Hong Kong to implementation of comprehensive legislative regulation, we need time to establish a solid regulatory regime. In ensuring the quality and safety of Chinese medicine, we must also cater to the needs of the trade properly and give them adequate time for adaptation and preparations, so as to comply with the statutory requirements and avoid, as far as practicable, cessation of business on the part of Chinese medicine traders, particularly Chinese medicine manufacturers, who may not be able to meet the statutory requirements or afford the increases in operating costs, as pointed out by Mr WONG Ting-kwong just now. By stepping up our communication with the trade and promoting scientific research on Chinese medicine, just as Dr PAN Pey-chyou said earlier, we will also strive to assist the trade in upgrading the quality, so as to enhance the public's confidence in Chinese medicine.

President, lastly, I wish to take this opportunity to explain specifically the meaning of some labels and codes mentioned by Dr LEE just now. The public may not be familiar with these codes. The "Notice of confirmation of transitional registration of pCm" contains a transitional registration number with the format of "HKP" plus five numbers. Applicants are required to affix or print a label with the transitional registration number on the external package of the pCm. With this code, it means that the product has been issued the "Notice of confirmation of transitional registration of pCm" by the CMB in Hong Kong in accordance with the CMO. It also means that basic information on the protection of public health has been submitted with respect to these products, that

is, test reports on heavy metals and toxic element, pesticide residues and microbial limit, which I mentioned just now, and the arrangements for the transitional registration of pCm have been complied with.

The "Notice of confirmation of (non-transitional) registration application of pCm" contains a serial number, with the format "HKNT" plus several numbers. As mentioned by Dr LEE just now, it is an application number for the registration of pCm. As the serial number concerned is not a registration number, words such as "pCm registration number" or "registration number" may not be printed on any internal or external packaging or package insert.

President, I so submit. After listening to the views to be put forth by Members on the original motion and the amendments, I will make a further response.

**MR ANDREW CHENG** (in Cantonese): President, in March this year, the Singaporean authorities decided to recall the Po Chai Pills produced by a licensed proprietary Chinese medicine (pCm) manufacturer in Hong Kong. It was only by then that the Department of Health (DH) awoke and directed Li Chung Shing Tong (Holdings) Limited Hong Kong (Li Chung Shing Tong) to recall the pCm. President, government departments, including the Food and Environmental Hygiene Department and the DH, always give us the impression that our Government will only act in hindsight after the media or government departments in other countries or places have found that certain medicines or foods were problematic. Insofar as this incident is concerned, it is most shocking that five samples of the raw materials of this pCm were reportedly traced to a company called "Guangdong Shi Jian Biotechnology Company Limited", but the company is not on the list of Guangdong's drug manufacturers.

Last year, incidents involving "mouldy western medicines" had occurred one after another. Even the Audit Commission of the Government and the Public Accounts Committee (PAC) of the Legislative Council pointed out earlier that western medicine was subject to no regulation by the DH, and the community had totally lost confidence in the regulation of medicines by the Government. In

this regard, a report will be published by the PAC of the Legislative Council soon. Shocked by the "Po Chai Pills" incident, we cannot help asking, how lax is our regulatory system on Chinese medicine? Subsequent to the follow-up actions by various parties, it is found that the regulatory system is really full of flaws and loopholes.

The Chinese Medicine Ordinance (CMO) was passed by the Legislative Council as early as 1999. Under section 119 of the Ordinance, pCms must be registered and are proved by documents that they comply with requirements in terms of safety, quality and efficacy before they can be sold in Hong Kong.

Ten years have passed and we all think that Hong Kong has put in place an ordinance to regulate the quality and safety of pCms, and that we can feel at ease taking pCms. Who would have realized that the provisions of section 119 of the CMP have actually not yet come into operation? All pCms can be sold in Hong Kong, disregarding whether they are manufactured in Hong Kong, the Mainland or other parts of the world; whether the manufacturers comply with the GMP requirements in Hong Kong or the Mainland; and whether the manufactures are registered or unregistered. Let me cite the "Po Chai Pills Capsule Form" as an example. The Government cannot take legal actions under the CMO even if the pCm in question is manufactured by a substandard pharmaceutical company, or the medicine supplier is not registered on the Mainland, or the manufacturer is still applying for registration in Hong Kong. Is this an extremely large loophole and a "tail" in the law? So long as the pCm registration system is not implemented, people in Hong Kong can never tell whether the pCms taken by themselves or their family members are safe and effective.

The legislative amendments to the Undesirable Medical Advertisements Ordinance, another ordinance which is closely related to Chinese medicine products, were passed in 2007. However, more than two years have passed and the amendments have still not come into operation. Many products which contain Chinese medicines have made all sorts of health claims, and the Consumer Council has found, through investigations, that these products are problematic. The amendments to the Undesirable Medical Advertisements Ordinance seek to enhance the regulation of these health claims, but likewise, the legislation has yet to come into effect.

Many families in Hong Kong keep some pCms at home for emergency needs, and very often pCms are taken by the frail elderly and small children. In

the "Po Chai Pills" incident, people who returned the pills in question were mostly elderly people. As people in poor health usually take pCms when they feel unwell, their conditions will deteriorate very easily if the safety and efficacy of pCms are problematic. However, the DH has still not addressed this problem squarely over the years. Not only has section 119 of the CMP not yet come into operation despite much delay, the Government has also failed to take any administrative measures for remedial purposes. While some medicines are already registered under the transitional arrangement, some are registered under the non-transitional arrangement, and some applications for registration have been rejected. The Government only publishes such information by Gazette notices, without setting up a well-established system to inform members of the public of such information.

As the pCm registration system has not yet put into implementation, can the authorities regulate the quality of local pharmaceutical company, which can at least let Hong Kong people who choose to buy products manufactured by local pharmaceutical companies have confidence? Unfortunately, of the existing 450 pCm manufacturers, about 290 are only holding transitional certificates, and they are not yet formally registered. The local media found in their follow-up actions that these pharmaceutical companies have varied standards, and a number of them have poor operating environment. Some of them are located in old tenement buildings, while others are adjacent to places with poor sanitation. The DH might not want to see many pCm manufacturers wind up their business, but the Government cannot simply adopt a non-interfere and unchecked attitude. Over the past decade or so, the authorities have allowed manufacturers of "cottage factories" to operate and have not set any deadlines, hence giving us an impression that the quality of medicine manufactured in Hong Kong has continued to deteriorate. I hope the Government can address this issue squarely.

President, with regards to the amendments proposed by the two colleagues, we support the amendment proposed by Dr PAN Pey-chyou. However, the Democratic Party will abstain from voting on the amendment proposed by Mr WONG Ting-kwong to allocate more resources to support the trade in conducting pharmaceutical product testing and research and development because we think that economic activities should be led by the market under a free market economy. The Government should merely be responsible for providing an open, fair and just operating environment rather than allocating more resources to



certain trades. On the Chinese medicine policy, I hope colleagues can understand, the proper approach is to enforce expeditiously the amended provisions, and through regulation by the Government, promote the overall development of the Chinese medicine and upgrade the self-regulation of the trade.

President, I so submit.

**DR LAM TAI-FAI** (in Cantonese): President, Chinese medicine practitioners (CMPs) and Chinese medicine have a long history with extensive and profound knowledge. I believe even the President agrees that CMPs and Chinese medicine play a key role in our culture of 5 000 years. Not only the Chinese take Chinese medicine for its unique efficacy, many foreigners also take Chinese medicine for treating diseases; some even introduce Chinese medicine into their countries. For instance, in 1991, the Beijing University of Chinese Medicine and a German enterprise jointly established a hospital of Chinese medicine to treat chronic illnesses mainly with Chinese medicine and supplemented by western medicine.

Before the reunification, the colonial government merely believed in western medicine practised in Britain and had little faith in Chinese medicine, and the development of the Chinese medicine industry was neglected as a result. Not only was formal Chinese medicine course unavailable in Hong Kong, proprietary Chinese medicines (pCms) were also not subject to stringent regulation.

After the reunification, Mr TUNG Chee-hwa proposed in 1998 to promote Hong Kong to become a Chinese medicine port, or a centre for CMPs and Chinese medicine, and indicated his faith that the Chinese medicine industry could promote the economic growth of Hong Kong.

Hong Kong people, with more than 90% of them being Chinese, will definitely not find Chinese medicine and pCms new to them. Chinese medicine ought to enjoy great opportunities to thrive in Hong Kong, or even develop into an industry. Therefore, I found Mr TUNG Chee-hwa's proposed development of a Chinese medicine port very forward-looking and insightful.

However, I wonder if Mr TUNG, the then Chief Executive, had entrusted the wrong person. Such a good programme had eventually disappeared! In retrospect, had the Government showed determination and an enterprising spirit to start developing the Chinese medicine industry more than a decade ago, I believe the Chinese medicine industry in Hong Kong would have developed and become quite mature by now. It might even have become a new industry and provided a new way out for our economy.

At present, the development of the Chinese medicine industry in Hong Kong can be described as pretty slow. Incidents of pCms having quality problems occur repeatedly. In fact, Hong Kong people prefer taking pCms when they fall ill, especially when they suffer from minor illnesses, because it is convenient and inexpensive to do so, and they do not have to spend time to seek treatment. In fact, many pCms have proved to be quite effective. For instance, many people will take Trumpet Brand Seirogan pills when they have diarrhea and take Yinchiao Tablet when they find themselves suffering from "excessive internal heat". When I was young, I frequently took Po Chai Pills. PCms have indeed become a part of our daily lives. But, unfortunately, the development of the Chinese medicine industry in Hong Kong has always stood still and failed to develop healthily. Moreover, the quality of pCms has often been found to be problematic.

President, I think this is a problem in which thoughts affects behaviour, and behaviour in turn affects the outcome. Perhaps the Government does not have great faith in Chinese medicine and the efficacy of pCms, and this in turns affect the Government's determination and vigour in promoting the development of Chinese medicine. As a result, the role played by the authorities has always been confined to regulating and monitoring. However, as pointed out by Andrew CHENG earlier, the Government has even failed to perform its regulatory and monitoring role satisfactorily. Owing to the abundant regulatory loopholes, there are weeds among seedlings in the Chinese medicine industry, and deceptive acts do occur. Of course, the manufacturers can hardly shirk their responsibility for the occurrence of successive incidents involving problematic pCms. However, the most fundamental cause is that the Government has all along failed to take the development of the Chinese medicine industry seriously and pay attention in pursuing its development.

If an industry is given ample opportunities for development and has a good operating environment, it will naturally be pushed to raise its quality when faced with market demand and competition, with a view to making continuous improvement to avoid being eliminated by the market. Therefore, I do not agree entirely to the Government's thinking that improvements will be made through monitoring, regulation and penalties. I think the Government must provide more incentives and supportive policies to enable the industry to thrive. Only in so doing will the quality be raised naturally.

As pCms are part of the Chinese medicine industry, the problems with the quality and regulation of pCms are essentially attributed to the Government's failure to come up with a comprehensive set of concrete policies to develop the Chinese medicine industry. Hence, I particularly agree with the amendments proposed by Dr PAN Pey-chyou and Mr WONG Ting-kwong today to call on the Government to formulate policies and allocate more resources to promote the sustainable development of the Chinese medicine industry. Apart from performing its monitoring and regulatory role properly, the Government must work out solutions to help the industry resolve its problems and upgrade its standard. The management and operation of the industry must not remain at cottage operation level, as the quality will not be raised under such mode of operation.

President, the manufacturers must be responsible for quality tests during the production of pCms. However, the cost for testing each type of medicine will frequently be hundreds of thousands of dollars. This is a heavy burden for small pharmaceutical companies. The cost incurred for research and development of a new medicine is even more alarming. It would be even harder to go further, such as complying with the Good Manufacturing Practices, or GMP, as mentioned by Andrew CHENG earlier, because the investment will at least incur several million dollars or more than \$10 million, which is simply beyond the affordability of small and medium pharmaceutical companies.

Hence, the Government should explore ways to assist the industry in terms of resources and financing to allay their burden in various aspects, including testing, research and development, plant improvement, and so on. Solely relying on tax deductions on general expenses definitely cannot help the industry take a big step forward in development. Furthermore, the Government can

consider setting up an ad hoc committee to assist with the development of the industry. Apart from the special tax concessions suggested by me earlier, I also hope the Government will organize more Chinese medicine exhibitions, step up publicity, assist the industry to develop overseas markets and expand export, so that the industry can continue to operate, upgrade its quality and make changes. If the industry has greater room for development, it will naturally be motivated to manufacture quality medicine.

On the other hand, President, I think the safety of pCms is not as lopsided as the Government thinks. It is not simply confined to examining whether the pCms contain "toxic substances". Instead, the Government should examine if the relevant medicine is effective, if it has the claimed efficacy and if there are any side-effects. It should also be stated clearly what sort of people is suitable or unsuitable for consuming the medicine. In this regard, the judgment should be made by Chinese medicine experts, not laboratories. However, there is a serious shortage of such professionals and talents in Hong Kong. Hence, I hope the Government will proactively consider formulating policies to attract more experts from the Mainland to Hong Kong to nurture local talents and lift the professional standard of the Chinese medicine industry in Hong Kong, which will in turn upgrade the standard of pCms as well.

President, I so submit.

**MR VINCENT FANG** (in Cantonese): President, public acceptance of Chinese medicine, including Chinese medicines by prescription and proprietary Chinese medicines (pCms) has been on the rise. Thus, the industry is fully supportive of the enactment of the Chinese Medicine Ordinance (Cap. 549) in 1999 and the establishment of the registration system for pCms and pCm manufacturers in 2003. This is because the registration system can safeguard the reputation of the industry, enhance the acceptance of its products and boost the confidence of the public in pCms, thereby conducive to the development of the industry. A win-win situation can therefore be created.

As the industry also attaches great importance to the quality of pCms, why do we have the recent problems of Po Chai Pills, a century-old brand, found to contain western drugs? This incident actually reflects that the Government only

enacts legislation for regulatory purposes, without ever trying to understand the difficulties encountered by the industry in complying with the Ordinance and has not allocated adequate resources to provide the industry with appropriate support.

In March this year, the Department of Health (DH) ordered to recall two products manufactured by Li Chung Shing Tong (Holdings) Limited Hong Kong. However, according to the announcement made the following day, only one of the two products, that is the "Po Chai Pills Capsule Form" contain slimming western drugs and had to be recalled.

For those colleagues who have paid attention to this piece of news, they should have known that the problem with the medicine was not, as rumoured among the public, caused by the indigenous method of producing the medicine with electric rice cookers. It was actually because Li Chung Shing Tong had outsourced the production of the "Po Chai Pills Capsule Form", which was found to be problematic, to a western medicine manufacturer which has attained the Good Manufacturing Practice (GMP) standard. The pills were contaminated during the production process.

In fact, the pharmaceutical company in possession of the prescription takes quality and quantity seriously and thus entrusted the GMP manufacturer to manufacture the medicine. Unexpectedly, the problem occurred and that is definitely not the brand name holder would like to see. After all, building a century-old brand name is an extremely difficult task.

This incident has exposed numerous problems. Most importantly, the Government only regulates by legislation without assisting the regulated industries. The same goes for the registration system for pCms and pCm manufacturers as well as the nutrition labelling scheme, which will come into operation on 1 July. The Government keeps implementing new measures to suppress the room for business operation in Hong Kong. As the Chinese medicine manufacturers in Hong Kong are mostly small enterprises, how many of these manufacturers have sufficient capitals to invest in plants and machinery and recruit professionals to meet the certification standard of GMP?

As stated by the Secretary in replying the relevant questions raised this morning, there are currently 450 registered Chinese medicine manufacturers in

Hong Kong. The industry thus hopes that hardware and software support can be provided by the Government.

On hardware, given that the Government has allocated substantial resources to build Science Park, it is hoped that the Government can also provide the pCm trade with cheaper plants, after all Chinese medicine is part of the finest heritage of our country. Among the 200-odd Chinese medicine manufacturers not attaining the GMP standard, many are small-scale traditional manufacturers, operating in residential buildings for manufacturing medicines such as medicated oil, bone-setting medicated liquor, and so on. Under the law, Chinese medicine manufacturers operating in residential buildings are not eligible for registration.

On software, the key is manpower. Unfortunately, the Government has simply not provided any vocational training for this industry and, as a result, the industry is unable to recruit qualified people.

President, for an industry which has survived thousands of years, should we not develop and expand it instead of letting it run its own course? This is why the industry supports Dr PAN Pey-chyou's proposal of establishing a committee on the development of Chinese medicine to be responsible for the development of the Chinese medicine trade.

Finally, the incident has also revealed two other problems related to the recall procedure and fake medicine.

Singapore, which took the lead in recalling Po Chai Pills, only recalled the "Po Chai Pills Capsule Form", yet the DH recalled all products manufactured by the manufacturer in Hong Kong. Although the Government's laboratory found that only 11 samples taken from the "Po Chai Pills Capsule Form" contain ingredients of western drugs, the Government had not clarified in its report that the Bottle Form had no problem.

This is what the industry and I have been worrying about. By citing reasonable suspicions, the Government can recall any products without offering compensation. While the losses thus incurred are only secondary, it is more

important that the reputation of and the achievement made by the brand name over a century will be damaged.

In this incident, many members of the public had returned the Po Chai Pills kept at home. However, the manufacturer found that many of the pills returned were fake. Hence, if the Government only enacts legislation to impose regulation without supporting and encouraging law-abiding businessmen, as well as promoting their commodities, all the genuine products sold in the community will have no more room for survival. Therefore, the industry supports the original motion and the two amendments proposed today. I so submit. Thank you, President.

**DR PRISCILLA LEUNG** (in Cantonese): President, there have been frequent recalls of pCms in Hong Kong. Just as Mr Vincent FANG has mentioned, even one of the old brand names, Po Chai Pills, which claims that people taking it should not be afraid of falling ill, have to be recalled urgently for suspecting, upon examination, that its raw materials are contaminated. The general public is thus greatly concerned about the inadequate regulation of proprietary Chinese medicines (pCms).

The motion proposed by Dr Joseph LEE today calls on the Government to ensure the safety of the pCms available on the market in order to safeguard public health. I believe no one will object to this prerequisite because everyone will put health and safety in the number one position. The Government is indeed obliged to ban those substandard or even dangerous pCms from being put on the market. Otherwise, it would be extremely ironic should "medicine become poison".

However, after the "Po Chai Pills" incident, should the Government again adopt a stop-gap approach by putting section 119 of the Chinese Medicine Ordinance (CMO) into operation and requiring all pCms to apply for formal registration, otherwise the selling or possession of pCms will be prohibited? In this regard, I agree to the amendments proposed by Dr PAN Pey-chyou and Mr WONG Ting-kwong that "the Government, while exercising regulation, also has the responsibility to provide support for the trade" and more resources should be allocated to support the viability and development of the trade.

While it is absolutely necessary to step up regulation and ban harmful or toxic pCms, there are two sides of the coin. Should the Government, while exercising regulation, also propose measures to assist and support the trade to return to the right track and continue with its operation? I believe this is the only way to serve both purposes. The two sides should complement each other. With the Government willing to provide assistance and the trade willing to exercise self-regulation, public confidence will naturally be restored. However, this is very often not the case with the trend of development in the market.

In the past two years, many friends in the Chinese medicine sector have approached me. They pointed to me that the pCm trade in Hong Kong has a long history and could almost be traced back to the 1840s. Nowadays, many pharmaceutical factories carrying brands with a long history can still be found in my constituency, namely the West Kowloon District, such as Yau Ma Tei. These pharmaceutical factories have always been operating on a family basis, and their prescriptions are secret, passed down from their ancestors and cannot be made public. The manufacturing of medicines relies on experience and skills. It is not an industry that allows mass production. Therefore, if an across-the-board requirement on regulation, registration and certification is imposed on the trade, the traders will definitely have difficulties in compliance. I have also received many letters seeking assistance. They have also provided some figures indicating that the sudden closures of these small businesses will force tens of thousands of workers out of job. Therefore, we must give holistic consideration to this issue.

Do we wish to see this traditional trade decline slowly and disappear from Hong Kong history? I think the answer should be negative, because Chinese medical practitioners and Chinese medicines in Hong Kong have gained international acclaim. Moreover, the Chief Executive has kept emphasizing in his policy address to develop the six industries and one of them, testing and certification industry is closely associated with the development of pCms in Hong Kong. Furthermore, Hong Kong has the potential to develop pCms, and there is wide acceptance of pCms among the public. Therefore, I very much hope that the Government, while exercising regulation, can put in efforts again to develop the Chinese medicine port, the brainchild of the former Chief Executive, Mr TUNG, and make it into a brand name of Hong Kong, so that this project will not end in failure.



In fact, in one of the examples cited by me just now, I had once rendered assistance to a group of practitioners in the Chinese medicine trade early last year. They were concerned they had to apply for transitional registration for pCms within the application period from December 2003 to 30 June 2004, and had to submit a report within five years after the deadline on 30 June 2004. Many of these people told me about their plight, saying that they felt very helpless. Personally, I also think that there is a need for regulation and stringent restrictions should be imposed because some pharmaceutical factories might really be substandard. Therefore, I think that the two blades of this sword should be as balanced as a scale, so that people in the trade will receive assistance on the one hand, and being regulated on the other.

In retrospect, when the CMO was enacted in 1999, the financial and technological support given by the Government to the trade was inadequate. As the trade did not have sufficient funds to meet the huge expenses on testing and could not submit the required reports, their products naturally could not be registered. I was told by some pharmaceutical factories that they had attempted to conduct the tests at their own cost, but consequently, they could hardly survive. The double loss incurred had indeed left them with tremendous hardships. Therefore, with respect to the various examples cited by me earlier, I very much hope that when Chinese medicine is found to be problematic, the Government must refrain from purely adopting the standards of western medicine to regulate pCms. Instead, a unique way must be adopted to address the problem.

Therefore, I support the amendments proposed by Dr PAN Pey-chyou and Mr WONG Ting-kwong, for I think that their amendments are more consistent with the two sides of the scale as mentioned by me earlier. I so submit.

**MRS REGINA IP** (in Cantonese): President, I would like to thank Dr Joseph for proposing this motion and the other two Members for proposing their amendments today.

In fact, my concern about the development of the Chinese medicine trade can be traced back a long time ago when I was working with the Industry Department more than a decade ago. I remember at that time (as mentioned by many colleagues earlier), that is, more than a decade ago, the then Chief

Executive, Mr TUNG, expressed his wish to turn Hong Kong into a Chinese medicine port. Hong Kong was no lack of the conditions in this respect. Over the past decade or two, a number of universities in Hong Kong have applied for Government funding to conduct scientific research on Chinese medicine, such as research on the properties of Chinese medicine. I remember I had approved a number of such funding applications. It was believed that, by combining western scientific knowledge, we can have better assurance of the quality of Chinese medicine and can present the information on the properties of Chinese medicine in a better way to the public. Of course, we know that our neighbour, Shenzhen, has made a lot of efforts in the area of Chinese medicine and has attained considerable achievements.

Personally, I think several problems must be addressed if Hong Kong is to attain success in developing Chinese medicine. The first one relates to regulation, how should our regulation gain the recognition of the relevant authorities. I hope Secretary Prof Gabriel Matthew LEUNG can respond to this point later. We have discussed this issue before. At present, people who engage in scientific research in Hong Kong have to face a problem, that is should they wish to make a medical claim of a certain product, they must go through a complicated regulatory procedure to get the approval from the Food and Drug Administration (FDA) in the United States, or get the approval from the Mainland. Otherwise, that product cannot be sold as a medicine. Therefore, it is quite difficult to achieve this. How about Chinese medicine? How can Chinese medicine break into the Mainland market if FDA approval cannot be obtained easily? In fact, the trade very much hopes that the Government can give them a helping hand.

Testing and certification is designated by the HKSAR Government as one of the industries with competitive edge. This is logical because Hong Kong has all along excelled some Mainland cities in quality assurance. Many mainland visitors will buy Chinese medicines and formula milk during their visit in Hong Kong and bring them back to the Mainland. But what is the actual situation? I hope Secretary Prof Gabriel Matthew LEUNG can respond to the problem concerning Po Chai Pills as raised by many colleagues earlier. If Hong Kong is to become a Chinese medicine hub with good quality assurance as it has claimed to achieve, we need to review the situation regarding the implementation of GMP in Hong Kong. Many manufacturers whom I have contacted claim that their production is carried out in accordance with GMP. However, I hope that the

Government can explain more clearly how inspections are being conducted. Does the Government merely examine some documents which prove that the International Organization for Standardization, number so and so, or the GMP has been complied with, or will the Department of Health actually conduct random inspections on a regular basis? I believe many members of the public still recall that a local manufacturing premises was earlier found to be substandard, with poor sanitation and unhygienic environment. Recently, even the old brand name, Po Chai Pills, was found to be problematic. What is the point if the so-called GMP exists in name only and there are no random inspections and spot checks carried out by the Government? If Hong Kong is to develop testing and certification, quality control must be regulated more stringently.

I greatly support the motion and amendments proposed by Dr LEE, Dr PAN and Mr WONG because more government support is definitely required if we are to develop our Chinese medicine trade. Furthermore, on medicine regulation, the Government should assist local manufacturers to break into the Mainland market on the one hand, and firmly implement GMP for quality assurance on the other, so as to boost the confidence of consumers in purchasing medicines manufactured in Hong Kong. This is very important. Otherwise, how can we compete with Shenzhen? I wonder whether Secretary Prof Gabriel Matthew LEUNG has visited the Chinese medicine industry in Shenzhen. The industry there has remarkable development with diversified production, modernized manufacturing plants and highly diversified products. Moreover, the Chinese medicine industry is the mainstay in Shenzhen. How should we leverage on our edge in quality and the knowledge on western science and medicine as gained by a number of universities in Hong Kong to fight a "hard way" out — I should say a "feasible way" out, not a "hard way" out? I hope the Secretary can respond to this later.

President, I support Mr Joseph LEE's motion and the amendments proposed by the two colleagues. Thank you.

**MR CHAN HAK-KAN** (in Cantonese): President, many colleagues mentioned Po Chai Pills earlier, and whenever it comes to Po Chai Pills, I would think of a slogan in its advertisement which says to the effect that no disease can harm us with Po Chai Pills around. Everyone is familiar with this slogan in its advertisement which has taken root in the hearts of the people. It is this slogan

and the prestigious reputation of Po Chai Pills that have made many people believe that the quality of these pills is safeguarded. But as some colleagues said earlier, after the incident of Po Chai Pills, members of the public have come to realize that there are problems with the quality of proprietary Chinese medicines (pCms) in Hong Kong and there are also many loopholes in the regulatory mechanism.

Concerning this incident of Po Chai Pills, the problem was first discovered not by the Department of Health (DH) of Hong Kong, but the Health Sciences Authority in faraway Singapore. It was only a few days after the incident had occurred that the DH suddenly realized it and took actions only a couple of days later. Subsequently, it was even revealed that the manufacturer, Li Chung Shing Tong (Holdings) Limited, had found problems with the medicine as early as in January this year and had recalled the medicine in private. Outrageously, the DH knew nothing about this. It is indeed slow in seeing the picture and making a response.

President, I can see that of the 500 pCm manufacturers announced by the DH last month, 350 are still operating with a transitional licence. I have also browsed the webpage of the Chinese Medicine Council of Hong Kong (CMC) and found that many brands of medicine which are popular among the public, including "Imada", "Lee Man Shan", "Chan Lo Yi", "Chai Tin Sow", and "Healthworks", have only a transitional licence. As for Chinese medicines, 9 000 kinds of Chinese medicines have only been registered transitionally. President, I am not saying that these medicines or companies must have problems. I only wish to raise the point of why so many pharmaceutical companies and pCms still have not met the basic requirements. I wonder if it is because they have encountered technical difficulties or they have failed to meet the standards in respect of management.

In fact, traditional Chinese medicine has already existed before the inception of Hong Kong. Many manufacturers are in a family mode of operation and may not be able to meet the modern requirements in one go. For this reason, the Government introduced the transitional arrangement in 1999. But if we do some counting, this transitional arrangement has been implemented for a decade and it is still being implemented now. For how much longer will it be maintained? I believe the trade does appreciate that they will have to face

reality sooner or later, which means that they must upgrade the facilities of their factories, enhance the safety of their pharmaceutical products and boost their productivity. But in the absence of a long-term plan and preparations for the development of Chinese medicine in Hong Kong, many members of the trade are operating with a mentality of taking every day as if it is the last day of operation.

I do not blame the trade for operating with this mentality because the Government's attitude towards supporting Chinese medicine practitioners (CMPs) has all along been different from its attitude towards the development of Western medical practitioners. President, insofar as the development of Chinese medicine is concerned, the Chinese medicine trade often has to kick the Government hard before the Government will make one slight move. In fighting for recognition of sick leave certificates issued by CMPs or the setting up of Chinese medicine clinics in public hospitals in the past, we invariably had to go through a long and strenuous process. In recent years, the trade has made numerous appeals to the Government for setting up a hospital which provides shared care services by doctors of Western medicine and CMPs, but it appears that the Government has not responded to this aspiration in its policies.

President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has all along advocated the development of a Chinese medicine hospital where medical consultation is provided by both Western medical practitioners and CMPs. One of the reasons is that we hope to promote the certification of pCms. Our idea is that this Chinese medicine hospital, apart from providing in-patient service, can also serve as a base for scientific research and studies, so that CMPs and research personnel can conduct studies for producing more Chinese medicines which are safer, more reliable and more effective, and more efforts can be made for obtaining clinical evidence, thereby upgrading the status of Chinese medicine.

President, apart from a Chinese medicine hospital, there are, in fact, many measures that can be of assistance to the trade, and financing is certainly most important. As I mentioned earlier, many pharmaceutical companies may not be up to par in terms of hygiene standards and their equipment is relatively backward. To make improvement, they must first pay a huge sum of money for improving the environment and acquiring new equipment, and this will put heavy pressure on them in their operation. I wonder if the Government can consider introducing some concessionary measures to provide loans, so as to help with the

restructuring of the small and medium pharmaceutical companies. We hope that assistance can first be provided to them in upgrading the standards of their factories to meet the formal licensing requirements and then steps can be taken to gradually require their factories to become Good Manufacturing Practice or GMP certified.

As for pCms, the Government should provide more courses on Chinese herbal medicine or pharmacy in Chinese medicine, in order to train relevant talents. The Government should also study the use of registered pCms in public out-patient Chinese medicine clinics, and assist the Chinese medicine sector in taking forward promotional work and opening up new markets, so as to help some well-known local brands of Chinese medicines to find their niches in the Mainland market as well as overseas Chinese markets.

The Government aside, the CMC is also duty-bound to carry out this area of work. It is because in recent years, the CMC has indeed attached importance only to the management work, neglecting studies on ways to promote the development of the sector, thus virtually turning itself into another regulator. In this connection, the DAB supports the proposal made in Dr PAN Pey-chyou's amendment of setting up a "committee on the development of Chinese medicine". The DAB also supports the original motion and the other amendment. Thank you, President.

**PROF PATRICK LAU** (in Cantonese): President, concerning how Hong Kong people think of proprietary Chinese medicines (pCm), it can be said that they have a love-hate feeling towards them. When we feel unwell but not to the extent of having to consult a doctor, we like to buy pCms at a drug store and take them, for this can provide relief to minor health problems and on the other hand, it is a less expensive, convenient way most welcomed by Hong Kong people whose tempo of life is quick and who are always so tied-up that they are like "having time only to die but not to fall sick" (as in the case of Members of the Legislative Council). However, we often do not have much confidence in the quality of pCms, because we have indeed heard of too many reports and warnings about the harmful effects of taking pCms — as also mentioned by a number of Members earlier — especially in view of the recent cases in which even some

long-established and renowned pharmaceutical companies were found to have produced products containing ingredients of forbidden drugs or toxic substances. This can be very scaring to the public.

So, I think the Government should expeditiously formulate a sound policy on Chinese medicine. I support the setting up of a committee on the development of Chinese medicine to promote the development of the Chinese medicine trade in Hong Kong and assist the trade to improve the safety and quality of pCms, unlike the proposal of developing a Chinese medicine port which is just empty talk. I also agree that the Government should allocate more resources to support the trade in the testing of pharmaceutical products and also in research and development, and actively provide support to programmes on the management of Chinese medicine in various tertiary institutions, in order to enhance the training of talents in this field.

I also support the proposal of "assisting local manufacturers of proprietary Chinese medicines in attaining the standard of the 'Good Manufacturing Practice in respect of Proprietary Chinese Medicines' as soon as possible". But I think we must not neglect the need to set standards — I have to talk about my sector, in order to show the importance of functional constituencies — the relevant guidelines concerning the design and construction of facilities and factory premises for manufacturing pCms are very important. Secretary, in order to set standards for the site, design and layout of the premises, it is necessary to draw up clear and detailed guidelines in respect of the manufacturing areas, storage areas, quality control areas and also ancillary areas, such as places for staff to take rest and take meals, lavatories and laboratory animal research rooms. The objective is to reduce the chance of making mistakes, avoid cross-contamination and accumulation of dust, and to permit effective cleaning and maintenance of facilities in various areas. Certainly, our architects are very knowledgeable about this. I have visited some pharmaceuticals manufacturing premises. Cleanliness is very important. Air-conditioning is required, complemented with vacuum facilities. So, there should be stringent requirements in these aspects. All factory premises for manufacturing pCms must follow a set of standard guidelines for construction. It is also necessary to introduce a licensing and inspection system, in order to effectively minimize the risk of errors.

President, I think it is equally important to impart knowledge of Chinese medicine to the public. I propose that the authorities should consider setting up a Chinese medicine education centre in each district for Hong Kong people to obtain some basic knowledge of Chinese medicine. They should also include Chinese and Western pharmaceutical health in primary and secondary school curricula — it seems that Chinese medicine is seldom mentioned in school curricula — so as to enhance the basic medical knowledge and health awareness of the public. In fact, there are many professionals specialized in the management of Chinese medicine and we should utilize their expertise and allow them more opportunities to bring their talents into play through various channels and make contributions to society.

President, I so submit. Thank you, President.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, it is no novelty that some unheard-of proprietary Chinese medicines (pCms) in Hong Kong manufactured by "cottage factories" are found to contain ingredients of western medicine or forbidden drugs. But recently, even medicines of major brands or brands with a long history are found to contain ingredients of western medicine and even carcinogenic substances. This obviously shows inadequate regulation by the Government and so, it is imperative to make improvements expeditiously.

Under the Chinese Medicine Ordinance, the manufacturing of pCms must be licensed by the Chinese Medicine Council of Hong Kong which is responsible for the regulation of the quality and efficacy of pCms. Applicants have to meet some requirements, such as whether the factory has adequate and suitable facilities for the storage of pCms. Under the transitional arrangements, manufacturers who started their business before the year 2000 can continue to manufacture pharmaceuticals after obtaining a transitional licence. According to the information of the Food and Health Bureau, there are currently close to 500 pCm manufacturers in Hong Kong, 70% or about 350 of which are only holders of transitional licences.

It may be too harsh to require small and medium pCm manufacturers to meet the requirements of the Chinese Medicine Ordinance in a short time, for this will inevitably strangle their commercial viability, and this is also why



transitional arrangements have been made for them. But it has been seven years since the transitional licences were issued in 2003, why are there still so many pCm manufacturers not being able to obtain a formal licence?

It is reported in the press that many of these pCm factories operating with a transitional licence are "cottage factories" where the equipment is simple and crude, and the hygiene conditions are poor. But why does the Department of Health still allow these factories to operate continuously? Over the last seven years, how many of these factories operating with a transitional licence have been inspected? Have their transitional licences been suspended because of their failure to meet the standards?

I hope that the Government can seriously address these problems and work out a timetable for conducting inspection on all pCm manufacturers. If problems are found, the substandard pharmaceutical companies should be immediately prohibited from continuing with the manufacturing of medicine. Penalty should be imposed on them until they can meet the standards, in order to safeguard public health.

In respect of testing and certification, many universities and some research organizations in Hong Kong have now engaged in testing and certification of the quality of pCms, but this is obviously not enough and is still at an initial stage. So, in the long run, the Government should make optimal use of the Hong Kong Council for Testing and Certification set up last year to vigorously develop testing and certification services for pCms. This can enhance the transparency and confidence of the pCm sector in Hong Kong, take forward the development of the Chinese medicine and create more job opportunities.

Some people are concerned that Hong Kong may not have enough talents. But in Hong Kong, many university graduates studying pure science are wasted every year as they are often forced to join other industries, such as the financial services industry or the service sector, because of insufficient job vacancies relevant to their disciplines in the market. If there can be suitable jobs for them in the market, I believe they can give play to their talents and apply what they have learned in their jobs. Therefore, if Hong Kong can vigorously develop

testing and certification services for pCms, this can definitely create some suitable jobs for them, thus preventing graduates from being possibly forced to join industries in which they are not interested, just as what is happening now.

We understand that the general foundation of Hong Kong today is very conducive to the development of testing and certification services for pCms. As long as the Government has the determination, and with our knowledge, techniques, as well as judicial and international status, Hong Kong absolutely enjoys an advantage among Chinese communities.

President, I so submit.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): President, on this first day of my return to the Legislative Council, I have already witnessed how loathsome the functional constituency (FC) election is. In the previous motion debate, Mr IP Wai-ming only proposed to review industrial safety, and even this had been voted down by FC Members. I think this motion, which is about proprietary Chinese medicines (pCms), may perhaps be better, for it does not involve the interests of major consortiums; nor does it seem to involve an increase in the cost borne by employers. This has indeed reflected that the role played by this Legislative Council is nothing more than an avenue for empty talk and a sheer rubber stamp. For things being said but not being put into action or not doing any good to the ordinary public, they will all be passed. Or, for things which sound appealing but in effect do not benefit the ordinary public, they will also be passed.

Turning back on this topic, this was proposed by the "dead" TUNG Chee-hwa back then — Don't worry, he is "dead" only in a political sense — This is actually what happened: Seven years ago, the enactment of legislation on Article 23 of the Basic Law was discussed in the Legislative Council and just when it was discussed in full throttle, well, this topic is really a legacy of what happened seven years ago. But today, nobody knows the whereabouts of the Chinese medicine port proposed by Mr TUNG. This is a full reflection of the evils done by a Chief Executive returned by 400 people, he is incompetent, if not shameless, or he is both incompetent and shameless. Members of this Council

had had serious discussion on his policy address which proposed a so-and-so Chinese medicine port, a so-and-so technology port which turned out to be the Cyberport for the benefit of the son of LI Ka-shing.

Today, what are we doing here? We are discussing the testing of Chinese medicine. Does this trade have a future in Hong Kong? It all depends on whether or not the Government has a policy on it. Some people are now saying that those pharmaceutical companies with no competitive edge should be scrapped. Nobody is going to shed tears over them, for these pharmaceutical companies are not being looked after by the Honourable FC Members. But the question is: After they are scrapped, will the Government truly implement the testing of pCms? Let me tell the Secretary: A friend of mine runs a business of health care and pharmaceutical products in Shanghai, and he has to make four trips to Hong Kong as he has to go to a so-and-so council in Sham Shui Po. He told me that he would fly into a rage whenever he went there because he would always be told to do this and that, so much so that he would only get very confused but then, nothing could be done in the end. What exactly is the problem? The problem is that although we do have the idea, we do not have a method to put it into practice.

First, will the Government, in terms of its policy, provide long-term support in respect of land, financing and provision of technology to facilitate their work, just as what it has done to provide benefits to the MTR Corporation Limited? I can see that just opposite the Chinese University of Hong Kong there is a ..... what park is it? Recreation Park?*(Someone chipped in)* Oh! The Science Park, not Recreation Park. I thought that it is Recreation Park. It is the Science Park, and it is really splendid. I have also seen that some people have established a so-and-so council and give themselves a pay rise and bonus annually, although the council is operating in the red. What are we talking about now? It is the rule of man. What are we discussing now? The issue is that the development of Chinese medicine absolutely cannot be something to be bragged about, because in order to become a testing centre for pCms, efforts must be made persistently and experiences must be accumulated, for it takes years or decades to ascertain the efficacy of a certain medicine.

It is because of the disclosure of the problems with Po Chai Pills by the media some time ago that we are here discussing this issue. What is the key

point? The problem that we have to address is actually this: What the Mainland, or the Guangdong Provincial Government of the Communist Party of China, does not want to do have to be done by us, or we have to do what they want us to do. This is the problem. From what we can see now, where does our Government deploy "heavy troops"? We all know that its aim is to make Hong Kong an international mega casino for people like Mr HUANG Guangyu to make a bet or two, and if they win, that would be very good; if they lose, they go to jail in disgrace. So, when we are talking about promoting the development of Chinese medicine, first, under the existing bureaucratic structure, and like the Secretary, who is a Western medical practitioner — He is a Western medical practitioner, isn't he? Why would Western medical practitioners care to understand Chinese medicine practitioners? Why would they not reject Chinese medicine practitioners in the bad system of the functional constituencies (FCs)? This is really a structural problem. I am not interested in studying this in depth; nor do I wish to offend those doctors. Chinese and Western medicines are two different kinds of medical skills involving two different principles of medical science. How can regulation be possible? Has the Bureau seriously thought of ways to avoid using a considerable amount of western medicines in treating patients (which is also the case in the Mainland) before talking about combining the use of Chinese and Western medicines in medical treatment? This is a fundamental question. So, my personal conclusion is simple — I am here talking nonsense again today, and there is nothing remarkable or outstanding about my view — the problem still lies in the FC election. On this first day of my return I have seen this twice. So, President, I really hope that you will not vote for the retention of the FC election, so as to save me the trouble of having to remind you of this again and again.

Thank you, President.

**MS AUDREY EU** (in Cantonese): President, I speak on behalf of the Civic Party to express our position on this motion on the regulation of Chinese medicine today.

President, first of all, we certainly very much support the original motion proposed by Dr Joseph LEE which involves the regulation of proprietary Chinese medicines (pCms). Besides, with regard to the two amendments proposed by Dr PAN Pey-chyou and Mr WONG Ting-kwong, the most important point made in their amendments is to provide assistance or support to the trade. President, the

Civic Party very much agrees that the Government needs to formulate policies to assist the trade. The reason is simple, and as Vincent FANG said in his speech earlier, in the recall of Po Chai Pills, for instance, not only the Po Chai Pills were found to have problems, but a lot of counterfeit Po Chai Pills were also found. If the Government does not have any policy to impose regulation or enforce the law, which would result in counterfeit goods being brought onto the market as genuine goods, the development of pCms would in turn be jeopardized.

Indeed, the testing and certification industry is one of the six major industries or economic areas where Hong Kong enjoys clear advantages as proposed by the Government. This is certainly very important and it is also necessary to inject resources into this area. In this connection, if, in proposing the provision of support to the trade, PAN Pey-chyou or WONG Ting-kwong means that the Government should inject resources into this area for initiatives to be taken institutionally and for consolidating enforcement actions, the Civic Party would very much agree to this.

However, I wish to make it very clear that this should not be taken to mean, say, subsidizing a certain sector, because we have reservation about this. If the Government will subsidize pCms, what about its subsidies to other trades and sectors? So, we must make our position very clear on this point. No matter how we are going to vote later on, I wish to state this position clearly, because the wordings of the proposal is sometimes rather general, thus making it difficult to clearly express the meaning. For instance, PAN Pey-chyou's amendment may propose to provide assistance institutionally, whereas the kind of assistance proposed by WONG Ting-kwong may be more in the form of subsidies and we have reservation about this. So, I have to make this position clear at the outset.

President, the issue of pCms was already raised during the session of oral questions this morning. The Government said that the provisions under the relevant ordinance related to the mandatory registration of pCms will be implemented by the end of this year. In fact, it has been a decade since the passage of the Chinese Medicine Ordinance by the Legislative Council but the provision on the mandatory registration of pCms has not yet been formally put into effect, and only the arrangement for transitional registration is now in force. The Secretary said this morning that this provision, namely, section 119, will

come into effect by the end of this year. President, as I listened to the Secretary's reply in this Chamber this morning, I already doubted whether the Government can truly implement this provision by the end of this year. The Government may be able to table the relevant subsidiary legislation to the Legislative Council as scheduled for passage, but its passage does not mean that it can certainly come into operation. If he said that it would be implemented and enforced this year, I would have great reservation about it, because it has been a decade since this ordinance was passed, and what has the Government done during this period of time?

In fact, concerning transitional registration, as also mentioned by many colleagues in their speeches today, there are currently 350 pCm manufacturers holding a transitional certificate. But if we look at this more clearly, 70 of them have already closed down, 30 have to relocate and suspend their production, and 250 are faced with various problems due to the production environment. In other words, the 350 pCm manufacturers holding a transitional certificate are not up to standard.

I put a question to the Secretary this morning about the situation in Taiwan and Singapore, as he said that Hong Kong is a forerunner. I said that Taiwan already adopted in 1999 the "Good Manufacturing Practice in respect of Proprietary Chinese Medicines", as mentioned by many colleagues in their speeches, or GMP in short; and in Singapore, a system for testing pCms has been implemented in three phases and the relevant requirements have been fully implemented since 2001. The Secretary explained that what they have adopted is only a registration system, rather than a genuine certification or testing system. But if we look at the situation in Hong Kong, only seven manufacturers have been able to meet the GMP standard, which is adopted as a statutory requirement in Taiwan.

Turning back to the situation in Hong Kong, as Mr LEUNG Kwok-hung mentioned in his speech earlier, we have all along put greater emphasis on Western medicine, with Western medical practitioners making up a majority of those who work in the Department of Health. Over the years, the question of whether or not Chinese medicine practitioners (CMPs) should be included in the Medical Functional Constituency has remained contentious. There are great contentions even in the CMP profession, and there are also arguments between

Registered CMPs and Listed CMPs. So, I am terribly worried. From what I have seen in the Government's main reply to the oral question, coupled with Dr PAN Pey-chyou's speech in which he proposed the setting up of a relevant committee, I am worried that the Government will only pass the buck to the trade, or require the trade to exercise self-discipline or set up a committee to deal with this matter, and then consider the case settled. I think if the Government is going to do this, it would be difficult to impose regulation. The Government must truly plough in resources before the registration of pCms can be implemented effectively. Certainly, this has to do with the development of the Chinese medical science. So, President, simply put, after problems were found with Po Chai Pills, the Civic Party has been very worried because this incident has actually highlighted the fact that the regulation of pCms by the authorities is fraught with loopholes and that the relevant ordinance cannot truly play its role. We will support Dr Joseph LEE's original motion and Dr PAN Pey-chyou's amendment. As for the amendment of Mr WONG Ting-kwong, we will abstain in the vote.

Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Dr Joseph LEE, you may now speak on the two amendments. You may speak for up to five minutes.

**DR JOSEPH LEE** (in Cantonese): I thank the 10 colleagues who have spoken on this motion today, and I think they have expressed their views very clearly. My motion is clear. It calls on the Government to strengthen the regulation of pCms both in terms of policies and enforcement. Dr PAN Pey-chyou's amendment expresses the wish for setting up a "committee on the development of Chinese medicine" to promote the development of the Chinese medicine trade. I agree to this proposal because under the existing structure of the Government, there is not a special committee for actively promoting the development of the Chinese medicine trade. There may be such for Chinese medicine practitioners

but there is none for the Chinese medicine trade. So, I agree that there is a need to step up work in this area.

As for Mr WONG Ting-kwong's amendment, I think the most controversial point is that he hopes that the Government ..... I have indeed listened very carefully to what Mr WONG Ting-kwong has said. He did not suggest the use of public coffers to subsidize the trade. He only said that this could be done by providing loans or in other similar ways. If I do not understand wrongly, Mr WONG Ting-kwong was saying that the Government should provide assistance but not by misusing public coffers. Rather, public coffers should be used appropriately to assist the trade and to support the trade, so as to enable the trade to meet the standards of, say, GMP, more rapidly. This, I agree. Certainly, if I misunderstood Mr WONG Ting-kwong's meaning, and if that is not what he means, if he thinks that the Government should subsidize the trade and spend money on helping the trade to do better, I would have reservation about it. It is because we must put public money to good use, and we absolutely cannot use taxpayers' money to help traders of pharmaceutical products or businessmen to attain their aims. In this connection, if I do not get it wrong — I see Mr WONG Ting-kwong nodding, which means that Mr WONG Ting-kwong was actually saying that the Government has the duty to assist the trade with public coffers by, for instance, providing interest-free loans, low-interest loans, and so on, to help the trade meet the GMP standard.

I also do not wish to see that the Government's stringent regulation on pCms or the registration of pCm manufacturers will cause a large number of practitioners in the trade to become unemployed. As other Members have mentioned, pCms can be said as part of Hong Kong and among the best of Chinese culture. If pCms would disappear in Hong Kong or we would not be able to achieve the objective of becoming a Chinese medicine port because of errors and deviations in law enforcement or polices, that would be most undesirable. So, for the reasons that I have stated, I will also support Mr WONG Ting-kwong's amendment.

Thank you, President.



**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, first of all, I thank Dr Joseph LEE for proposing the original motion. I also thank Dr PAN Pey-chyou and Mr WONG Ting-kwong for their amendments, as well as all Members who have participated in this motion debate. This motion debate has given us an opportunity to share with the Legislative Council our work in the regulation of Chinese medicine, especially proprietary Chinese medicines (pCms). I now wish to respond to the views expressed by Members earlier.

Firstly, the licensing system for Chinese medicines traders. To enhance the regulation of Chinese medicines traders, four kinds of Chinese medicines traders, including retailers and wholesalers of Chinese herbal medicines, and manufacturers and wholesalers of pCm, are required to apply for a licence from the Chinese Medicines Board (CMB) under the Chinese Medicine Council of Hong Kong (CMC). To enable Chinese medicines traders to continue operating their existing business in Chinese medicines, Chinese medicines traders who were in business on 3 January 2000 may apply for a licence under the transitional arrangements. The CMB has since issued licences to about 700 Chinese medicines traders, of which about 2 000 are holders of a transitional certificate.

With regard to the regulation of pCm manufacturers, the CMB requires that their factory premises be maintained in sanitary conditions with proper fittings and equipment. In this respect, Prof Patrick LAU has just shared with us his views. Besides, the persons responsible for the manufacturing of pCms must meet the knowledge and experience requirements prescribed in the Chinese Medicine Ordinance. Before a Manufacturer Licence in pCms is issued, the Department of Health (DH) will carry out inspections to ensure that the relevant premises and facilities can meet CMB's requirements in various aspects. President, after a licence is issued, the DH will carry out regular inspections as well as surprise checks.

Secondly, the registration system for pCms, as well as the market monitoring and product recall mechanisms. As I mentioned earlier, our plan is to put into full implementation the provisions under the Chinese Medicine Ordinance related to mandatory registration of pCms by the end of this year. Although the legislative provisions governing the registration of pCms are not yet in operation, licensed pCm manufacturers have to observe the law and the requirements of practising guidelines, which include ensuring that the pCm manufactured and distributed meet the quality requirements, one of which is that

their products do not contain ingredients of medicines other than those in the prescription. Besides, they must have in place a proper product recall system in accordance with the "Practising Guidelines for Manufacturers of Proprietary Chinese Medicines" to ensure that pCms with problems can be recalled rapidly from the market. Manufacturers of pCms must state clearly in writing how this recall system will be put into practice. They must also notify people who are involved in the recall of the product, and provide a telephone/facsimile hotline for public enquiries. We will also make a recommendation to the CMB for a review to be conducted on whether a refund mechanism should be established in the light of the needs.

President, these codes of practice or guidelines are formulated by the CMB with the assistance of the DH. There are five such practising guidelines for their compliance.

The DH has all along conducted regular random checks on Chinese medicines products available on the market, and has taken actions to monitor pCms since their registration in 2009 by conducting random sampling tests on pCm based on results of risk assessment. If problems are detected, investigation will be carried out and appropriate actions taken in accordance with the relevant stipulations having regard to the individual circumstances. The DH can require the importer or manufacturer to recall the product with problems and issue a press release, as in the recent case of Po Chai Pills as mentioned by Members earlier. Cases involving registered pCms may be referred to the CMB for consideration as regards whether or not to revoke the registration of the product in question.

President, in the entire year of 2009, of the 157 pCm samples being tested, three were found to have heavy-metal contents exceeding the prescribed limit. The DH had immediately carried out investigation and instructed the relevant pharmaceutical company to recall the product and issue a press release for public information. In 2009, a pCm manufacturer reported to the DH that upon the self-arranged test on the product, it was found that a batch of its products was contaminated by western medicines. The DH had immediately instructed the manufacturer to recall the product and issue a press release.

To facilitate the full implementation of the provisions on the pCm registration system, the DH will step up its enforcement actions and monitoring of Chinese medicines traders by, among other things, increasing the number of regular inspections on Chinese medicines traders while carrying out surprise checks alongside, and monitoring the market by testing pCm samples bought in the market.

Thirdly, the provision of support to the trade. Many Members have spoken on this earlier on. President, to enable Chinese medicines traders and the public to better understand the regulatory system for Chinese medicine, the CMB and the DH have all along maintained good communication with the trade, and published on a regular basis the latest news and information for the reference of the trade and the public. Representatives of the DH will attend meetings of the Chinese medicine trade associations from time to time to help the trade understand the requirements for the registration of pCm. The trade will be consulted on and informed of the progress of the implementation of legislation as well as the relevant requirements through various channels, including the Retail Task Force of the Business Facilitation Advisory Committee under the Financial Secretary's Office, and holding briefing sessions.

Moreover, the DH will maintain close contacts with the World Health Organization, regulatory authorities in the Mainland and overseas drug monitoring bodies to help local Chinese medicines traders understand the latest development of Chinese medicine in places outside Hong Kong as well as their regulatory standards, with a view to upgrading the operation of the trade to meet international standards.

The fourth aspect is the testing of and scientific research in Chinese medicine. The Government of the Hong Kong Special Administrative Region (SAR) and the Hong Kong Jockey Club set up the Hong Kong Jockey Club Institute of Chinese Medicine (ICM) in 2001. The purpose is to promote, co-ordinate and strengthen scientific research in Chinese medicine in Hong Kong and facilitate the commercialization of research results in Chinese medicine. On the testing of the safety and quality of Chinese medicine products, the ICM has provided support to Hong Kong manufacturers of pCm in this respect.

The SAR Government set up the Hong Kong Council for Testing and Certification (HKCTC) in September 2009. The HKCTC submitted a report to

the Chief Executive just in end-March on the development of the industry in the next three years. The report mentions that assistance will be provided to the testing and certification industry in exploring more business opportunities in the field of Chinese medicine. To this end, the HKCTC will provide support to the Government in the development and regulation of Chinese medicine, such as providing assistance to upgrade the scale and capacity of the testing and certification industry in coping with the increasing demands for testing services arising from the registration of pCms.

Through the Innovation and Technology Fund, the SAR Government has provided funding support for the conduct of applied research for Chinese medicine and projects for development of a modern technological platform, and for procurement of additional advanced facilities and equipment for local universities and scientific research institutions, so as to enhance their capabilities in pharmaceutical research and development, pre-clinical study, manufacturing process development, analysis of Chinese medicine characteristics, quality assessment, and so on.

Another aspect is the setting of standards for Chinese herbal medicines. Presently, there is yet any uniform set of criteria internationally for the setting of standards for Chinese medicine. As a number of Members, including Mrs Regina IP, mentioned earlier, by leveraging on its strengths, Hong Kong has made positive efforts to develop standards for Chinese medicine, so as to make Hong Kong a platform for promoting Chinese medicine to the world. In 2002, the Department of Health launched a study programme on the Hong Kong Chinese Materia Medica Standards (HKCMMS) with the purpose of setting standards, in terms of safety and quality, for Chinese herbal medicines which are commonly used in Hong Kong. To facilitate the development of Chinese medicine, the coverage of the programme will be extended from the current 60 herbal medicines to about 200.

Apart from safeguarding public health, the development of safety and quality reference standards for Chinese medicines can help bring about improvements in the use of raw materials for pCms. It can also serve as the cornerstone for the conduct of further research on Chinese medicine and expedite the modernization of Chinese medicine, while facilitating the Chinese medicine trade and laying a foundation for Hong Kong's development into an international Chinese medicine centre. An International Advisory Board, comprising

high-level representatives from different countries, has been established for the HKCMMS to promote worldwide recognition and acceptance of the HKCMMS research results, so as to make Hong Kong a major platform for promoting Chinese medicine to the world.

Now, let me talk about the "Good Manufacturing Practice in respect of Proprietary Chinese Medicines" or "GMP" in short, President. A licensed pCm manufacturer can apply for a Certificate for Manufacturer (Good Manufacturing Practice in respect of Proprietary Chinese Medicines), or GMP Certificate, from the CMB. It serves to certify that the manufacturer has followed the requirements of good practices in the manufacturing and quality control of pCms. To facilitate the adoption of good manufacturing practices in the trade, the CMB has drawn up the "Hong Kong Good Manufacturing Practice Guidelines for Proprietary Chinese Medicines" for manufacturers of pCm on ways to achieve the GMP standard. The GMP system is currently not a statutory requirement, which means that manufacturers of pCm can decide on their own whether or not to apply for a GMP Certificate. However, to upgrade the standards of the trade, the Government will actively discuss with the CMB and the trade, with the objective of working out a timetable for making it mandatory for the manufacturing of pCms to comply with the GMP standard, in order to more effectively develop standards for the manufacturing of pCms.

I now turn to the establishment of a "committee on the development of Chinese medicine". This is an area of work mentioned in one of the amendments. The Food and Health Bureau has all long attached great importance to the development of the Chinese medicine trade. With regard to the regulatory system, we carry out monitoring on Chinese medicines traders and pCms through the CMC and the Department of Health. In respect of the long-term development of scientific research in Chinese medicine, we have been working closely with the Innovation and Technology Commission to assist the trade to adequately make preparations for the long-term development of the Chinese medicine trade, as also mentioned by Mr CHAN Hak-kan earlier. This arrangement has all along operated effectively. We do not see the need to set up an additional "committee on the development of Chinese medicine" at this stage.

President, with regard to public education, the CMB and the DH will step up publicity among the trade and the public on the requirements relating to the registration of pCms. We also plan to organize a series of promotional

activities, such as holding seminars and briefing sessions, issuing press releases, and uploading the latest information onto the webpage of the CMC. The DH will recruit students studying Chinese medicine in local universities as ambassadors. They will pay visits to licensed Chinese medicines traders and retailers to help the trade understand more thoroughly the relevant legislation on the registration of pCms, as well as the requirements in respect of labels and package inserts. President, speaking of public education, I have to thank Dr Joseph LEE once again for proposing this motion for debate, as well as the dozen of Members who have taken part in this debate which helps facilitate public understanding of and discussion on this issue.

President, Chinese medicine has a long history and encompasses a school of profound and sophisticated knowledge. Insofar as the regulatory system is concerned, other places in the world are in the early stage of devising such a system and have encountered many challenges, as also testified by the World Health Organization. We will proactively and positively co-operate and exchange views with other places and regions, while continuously maintaining close communication with the local trade, with a view to improving our existing regulatory system. In respect of scientific research, we hope that by leveraging on our strengths in scientific research and testing, we can take forward the regularization of Chinese medicine, so as to make Hong Kong an effective platform for promoting Chinese medicine to the world.

I so submit.

**PRESIDENT** (in Cantonese): I now call upon Dr PAN Pey-chyou to move his amendment to the motion.

**DR PAN PEY-CHYOU** (in Cantonese): President, I move that Dr Joseph LEE's motion be amended.

**Dr PAN Pey-chyou moved the following amendment: (Translation)**

"To add ", given that recently" after "That"; to delete "recently" after "Chinese medicines are"; to add "and hence have to be recalled from the market" after "toxic substances"; to delete "; in view of this" after "the

public"; and to add "; and the Government, while exercising regulation, also has the responsibility to provide support for the trade, including considering the establishment of a 'committee on the development of Chinese medicine' to promote long-term development of the Chinese medicine trade in Hong Kong, thereby enabling the trade to upgrade its quality and enhance its self-regulation on the safety of proprietary Chinese medicines" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Dr PAN Pey-chyou to Dr Joseph LEE'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 WONG Ting-kwong, as Dr PAN Pey-chyou's amendment has been passed, I have given leave for you to revise the terms of your amendment, as set out in the paper which has been circularized to Members. You may now move your revised amendment.

**MR WONG TING-KWONG** (in Cantonese): President, I move that Dr Joseph LEE's motion as amended by Dr PAN Pey-chyau be further amended by my revised amendment.

President, during the discussion earlier, Mr LEUNG Kwok-hung mentioned our discussion in the previous session, saying that Mr IP Wai-ming's motion was voted down by Members of functional constituencies (FCs) .....

**PRESIDENT** (in Cantonese): Mr WONG Ting-kwong, you should only explain the revised terms of your amendment. You should not .....

**MR WONG TING-KWONG** (in Cantonese): It is because in this session, a Member mentioned the discussion on the last motion .....

**PRESIDENT** (in Cantonese): Mr WONG, according to the Rules of Procedure, in this session, you cannot respond to the views of other Members. You should .....

**MR WONG TING-KWONG** (in Cantonese): I am making an elucidation. No matter how shameful FC Members are, we did give our support to the motion proposed by Mr IP Wai-ming. Somebody is misleading the public here.

**PRESIDENT** (in Cantonese): Mr WONG, I must stop you from going any further on this issue. You should only explain the revised terms of your amendment.

**MR WONG TING-KWONG** (in Cantonese): Now that we in FCs have been vilified. Can we not even explain our position?

**PRESIDENT** (in Cantonese): Through other channels, you can .....



**MR WONG TING-KWONG** (in Cantonese): My only chance is these three minutes of my speaking time.

**PRESIDENT** (in Cantonese): Mr WONG Ting-kwong, according to the Rules of Procedure, you are given these three minutes to explain the revised terms of your amendment.

**MR WONG TING-KWONG** (in Cantonese): In that case, I have nothing to explain. *(Laughter)*

**Mr WONG Ting-kwong moved the following further amendment to the motion as amended by Dr PAN Pey-chyou: (Translation)**

"To add "; this Council also urges the Government to allocate more resources to support the trade in conducting pharmaceutical product testing and research and development, and assist local manufacturers of proprietary Chinese medicines in attaining the standard of the 'Good Manufacturing Practice in respect of Proprietary Chinese Medicines' as soon as possible, so as to promote the development of the proprietary Chinese medicine trade in Hong Kong" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr WONG Ting-kwong's amendment to Dr Joseph LEE's motion as amended by Dr PAN Pey-chyou 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 Andrew CHENG rose to claim a division.

**PRESIDENT** (in Cantonese): Mr Andrew CHENG 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:

Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Prof Patrick LAU, Dr LAM Tai-fai, Mr Paul CHAN, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou, Mr Paul TSE and Dr Samson TAM voted for the amendment.

Dr Margaret NG, Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 21 were present, 18 were in favour of the amendment and three abstained; while among the Members returned by geographical constituencies through direct elections, 22 were present, seven were in favour of the amendment and 14 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Dr Joseph LEE, you have 16 minutes for your reply.

**DR JOSEPH LEE** (in Cantonese): President, I have nothing to add. I only hope that the Government will implement policies on the regulation of Chinese medicine. Thank you.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Joseph LEE, as amended by Dr PAN Pey-chyou, be passed.

**PRESIDENT** (in Cantonese): Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

**PRESIDENT** (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion as amended passed.

### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11.00 am on Wednesday, 26 May 2010.

*Adjourned accordingly at seven minutes to Seven o'clock.*

## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for Food and Health to Mr LEUNG Yiu-chung's supplementary question to Question 3**

As regards the registration system for proprietary Chinese medicines (pCm), there are 17 institutes for drug testing in the Mainland recognized by the State Food and Drug Administration to undertake testing for drug registration, technical evaluation on quality specifications for new drugs, testing for imported drugs, monitoring and testing on quality of drugs that are currently in the market, as well as drafting and revision of the National Drug Standards, and so on. These 17 institutes for drug testing have profound experience in pCm testing and possess a comparatively high technical competence. They are awarded a Certificate of Laboratory Accreditation by the China National Accreditation Service for Conformity Assessment and meet the requirements of ISO/IEC 17025. For this reason, upon the recommendation of the State Food and Drug Administration, the Chinese Medicines Board accepts the testing reports provided by these 17 institutes on the safety, quality and efficacy of pCm in Hong Kong.

The Department of Health (DH) also visited some of these institutes, including the National Institute for the Control of Pharmaceutical and Biological Products, Guangdong Institute for Drug Control, Guangzhou Institute for Drug Control and Shenzhen Institute for Drug Control. No unhygienic environmental conditions were found within their premises during the visits. Records of the DH's visits to the above four Institutes are set out below:

<i>Institutes for Drug Control visited</i>	<i>Number of visit</i>	<i>Date of visit</i>
National Institute for the Control of Pharmaceutical and Biological Products	1	November 2003
Guangdong Institute for Drug Control	1	March 2004
Guangzhou Institute for Drug Control	1	March 2004
Shenzhen Institute for Drug Control	1	May 2010

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Transport and Housing to Dr Margaret NG's supplementary question to Question 5**

As regards information on registered electors of the Real Estate and Construction Functional Constituency (FC), according to section 9 of the Electoral Affairs Commission (Registration) (Electors For Legislative Council Functional Constituencies) (Voters For Election Committee Subsectors) (Members Of Election Committee) Regulation (Cap. 541B), the Electoral Registration Officer may, for the purpose of preparing a register of electors for FCs, require a body to furnish such information as that Officer may require. The above section also stipulates that the information so obtained can only be used for the purpose of preparing the register concerned or in connection with an investigation or proceedings relating to an offence under that regulation.

According to section 20N of the Legislative Council Ordinance (Cap. 542), members of The Real Estate Developers Association of Hong Kong entitled to vote at general meetings of the Association are eligible for registration as electors for the Real Estate and Construction FC. Same as the register for other FCs, the register of electors for the Real Estate and Construction FC will include the particulars of electors registered for that FC. The registers for FCs are available for public inspection at the offices of the Registration and Electoral Office and such District Offices as specified in the relevant notice published in the Gazette.