

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 18 June 2014

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

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

THE HONOURABLE ABRAHAM SHEK LAI-HIM, G.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 VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, B.B.S., M.H.

PROF THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P., Ph.D.,
R.N.

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING, J.P.

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, S.B.S., J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

THE HONOURABLE PAUL TSE WAI-CHUN, J.P.

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

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

MEMBERS ABSENT:

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE GARY FAN KWOK-WAI

DR THE HONOURABLE KENNETH CHAN KA-LOK

PUBLIC OFFICERS ATTENDING:

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

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

THE HONOURABLE GREGORY SO KAM-LEUNG, G.B.S., J.P.
SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

MR LAU KONG-WAH, J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS
(am)

THE HONOURABLE RAYMOND TAM CHI-YUEN, G.B.S., J.P.
SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS
(pm)

MR JOHN LEE KA-CHIU, PDSM, J.P.
SECRETARY FOR SECURITY

DR THE HONOURABLE KO WING-MAN, B.B.S., J.P.
SECRETARY FOR FOOD AND HEALTH

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members to the Chamber.

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

PRESIDENT (in Cantonese): The meeting will now start.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Food and Drugs (Composition and Labelling) (Amendment) (No. 2) Regulation 2014	90/2014
Import and Export (General) Regulations (Amendment of Schedules) Order 2014.....	91/2014
Import and Export (Fees) (Amendment) (No. 2) Regulation 2014.....	92/2014
Solicitors (General) Costs (Amendment) Rules 2014	93/2014

Other Papers

Report No. 20/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

Report of the Subcommittee on Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order

A Companion to the history, rules and practices of the Legislative Council of the Hong Kong Special Administrative Region
Part I — An introduction to the Legislative Council, its history, organisation and procedure
(together with a covering paper on the Companion)

ADDRESSES

PRESIDENT (in Cantonese): Addresses. Mr James TO will address this Council on the Report of the Subcommittee on Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order.

Report of the Subcommittee on Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order

MR JAMES TO (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order (the Subcommittee), I now submit the report of the Subcommittee and address the Council on it.

The Inland Revenue (Exchange of Information relating to Taxes) (United States of America) Order (the Order) seeks to implement the Agreement between the Hong Kong Special Administrative Region (HKSAR) and the United States of America (the US) for the Exchange of Information relating to Taxes (the US Agreement) signed on 25 March 2014 in Hong Kong. The Subcommittee is very concerned that the wide scope of the Agreement will not only create great compliance burden on Hong Kong people and companies in providing information to the Inland Revenue Department (IRD) but also have serious resources implication on the IRD. Members consider that the Government should negotiate with US again to secure better terms for Hong Kong. In this connection, I have given notice to move a motion in my capacity as Chairman of the Subcommittee to extend the scrutiny period of the Order to 18 June 2014. I have also given notice to move a motion under my own name to repeal the Order. Unfortunately, as the Legislative Council had to continue with the examination of the Appropriation Bill 2014, the two motions could not be dealt with before 28 May which was the deadline for amending the Order. On behalf of the Subcommittee, I express the concern of members on the US Agreement.

The Subcommittee notes that the US Agreement is the first tax information exchange agreement (TIEA) concluded by Hong Kong with other jurisdictions. Members are concerned about the reasons for the authorities to sign a TIEA instead of a comprehensive agreement for avoidance of double taxation (CDTA) with the US.

The authorities have stressed that entering into a TIEA with the US serves the primary purpose of fulfilling Hong Kong's international obligation in enhancing tax transparency. According to the prevailing international standard, a jurisdiction should make available both CDTA and TIEA as instruments for exchange of tax information with other jurisdictions. Although it has been the Government's policy priority to expand Hong Kong's network of CDTAs, the Government's wish to enter into a CDTA with other jurisdictions cannot be a reason for refusing to enter into a TIEA with them. Despite the Government's repeated persuasion, the US has expressed no interest in entering into a CDTA with Hong Kong. In order to comply with the international standard, the Government has been negotiating with the US on TIEA. The authorities have said that they will continue their efforts to expand the network of CDTAs with their trading and investment partners. Even though the authorities may conclude TIEAs with certain jurisdictions at this stage, they do not rule out the possibility of pursuing CDTAs with individual jurisdictions later if they are interested.

The Subcommittee has studied the relationship between the US Agreement and US Foreign Account Tax Compliance Act (FATCA) which will come into effect in the US on 1 July this year as well as the arrangement for Hong Kong to use the US Agreement as the exchange of tax information mechanism to complement the implementation of FATCA.

The authorities have said that FATCA is an anti-tax evasion regime enacted by the US to detect US taxpayers who use accounts with foreign financial institutions to conceal income and assets from the US Internal Revenue Service. Essentially, FATCA requires foreign financial institutions, including those in Hong Kong, to report financial account information of US taxpayers to the US Internal Revenue Service. Failing to comply with the reporting requirements under FATCA by foreign financial institutions will result in the US Government imposing a 30% withholding tax on certain gross payments made from the US to the non-compliant foreign financial institutions.

The authorities further explain that the US has developed two Model intergovernmental agreements (IGAs) to simplify the FATCA requirements. Model 1 IGA requires foreign financial institutions to report account information of United States taxpayers to their own government, which will commit to exchanging such information at a government level with the US Internal Revenue Service on an automatic basis. However, as the existing laws of Hong Kong do not permit exchange of tax information with other jurisdictions on an automatic

basis, the authorities have adopted Model 2 IGA proposed by the US Government which requires foreign financial institutions to report the relevant account information of US taxpayers to the US Internal Revenue Service directly, supplemented by group requests made by the US Internal Revenue Service on a need basis, for exchange of information on relevant US taxpayers at a government level. The authorities have pointed out that the exchange of information at a government level has to be underpinned by an exchange of tax information agreement, be it CDTA or TIEA. As the US has not pursued a CDTA with Hong Kong, and to facilitate the conclusion of the IGA with the US before the implementation of FATCA, it is essential for Hong Kong to have in place a TIEA with the US in a timely manner to facilitate compliance of the financial institutions of Hong Kong with the requirements of FATCA.

The Subcommittee is concerned about the very wide scope of the US Agreement as it would require the IRD to provide the US tax authority with tax information pertaining to non-financial institutions in Hong Kong whereas FATCA involves reporting by foreign financial institutions only. The Subcommittee members have requested the Administration to consider restricting the US Agreement to exchange of information covering financial institutions only with a view to protecting the interests of non-financial institutions.

The authorities have stressed that according to the exchange of tax information mechanism provided for under the model of the Organization for Economic Cooperation and Development, TIEA includes all information relating to taxes covered, which may or may not be held by financial institutions. The authorities have pointed out that any major deviations from the model agreement, for example, limiting the scope of information to be exchanged to information held by financial institutions only, will run the risk of the TIEA not being internationally regarded as a compliant exchange of tax information agreement. It is also highly unlikely that the US will agree to adopt a TIEA which does not comply with international standards.

The Subcommittee is concerned about numerous exchange of tax information requests to be lodged by the US under the US Agreement after implementation of FATCA. Members consider that this will not only create great compliance burden on Hong Kong people and companies in providing information to the IRD but also have serious resources implication on the IRD. The Subcommittee has emphasized the importance for the IRD to examine exchange of tax information requests from the US competent authority in a

prudent manner and on the basis of evidence rather than claims to ensure that every request meets the conditions laid down in the US Agreement and there is no fishing expedition.

The authorities have stressed that according to international standard, exchange of tax information requests have to be foreseeably relevant to the taxes covered by the CDTAs or TIEAs. The requested party is not obligated to provide information in response to requests which are "fishing expeditions". The authorities have said that the IRD has all along adopted a highly stringent approach in handling exchange of tax information requests made pursuant to CDTAs to ensure that the overriding prerequisite of meeting the standard of "foreseeable relevance" is satisfied before any information is to be exchanged.

The Subcommittee is also concerned about confidentiality protection of the information obtained under TIEAs (particularly commercial information) and how to provide sufficient protection for data holders.

The authorities have advised that as stipulated in the US Agreement, any information received by a Contracting Party shall be treated confidential and may be disclosed only to persons or authorities in the jurisdiction of the Contracting Party concerned with the assessment or collection of, the enforcement or prosecution in respect of the taxes covered by the agreement; and such persons or authorities shall use such information only for such purposes and not for any other non-tax purposes, including disclosing or referring commercial information exchanged to other enforcement authorities not relating to the abovementioned tax purposes. Furthermore, in handling a request for exchange of tax information, the IRD will notify in writing the subject person of the request of the nature of the information requested by the US tax authority and of his right to request a copy of the information that the IRD is prepared to disclose to the US and to ask the IRD to amend any part of the information.

The Subcommittee has examined the requirements of FATCA on foreign financial institutions in Hong Kong and the benefits for them to adopt Model 2 IGA. In addition, the Subcommittee has urged the authorities to step up publicity in this respect so that the local financial services industry would be aware of the specific requirements of FATCA and be better prepared to comply with them.

The authorities have advised that the HK-US IGA will reduce reporting burden and facilitate compliance of FATCA by foreign financial institutions in Hong Kong in a number of ways. The Government has all along maintained close liaison with the financial sectors to remind them to assess their relevant FATCA compliance implications and urge them to have the procedures and systems in place to protect clients' interests and avoid aiding clients to engage in tax evasion locally or overseas.

To enable the Council's monitoring of the implementation of the US Agreement, the Subcommittee has asked the authorities to provide annual reports to the Panel on Financial Affairs (FA Panel) on the Agreement in future. Given that FATCA is a piece of legislation with far reaching implications on financial institutions worldwide, the Subcommittee has also urged the FA Panel to closely monitor the development of issues related to FATCA.

QUESTIONS UNDER RULE 24(4) OF THE RULES OF PROCEDURE

PRESIDENT (in Cantonese): Questions. Apart from the six oral questions for this meeting, I have permitted Mr TANG Ka-piu, Mr IP Kwok-him, Dr Fernando CHEUNG and Ms Starry LEE to respectively ask an urgent question under Rule 24(4) of the Rules of Procedure.

As the four urgent questions are related to the maintenance of public order and handling of protestors storming the Legislative Council Complex, to facilitate Members' follow-up, I will first call upon the four Members to ask their urgent questions and the public officer to reply to the four questions respectively. I will then invite Mr TANG Ka-piu, Mr IP Kwok-him, Dr Fernando CHEUNG, Ms Starry LEE and other Members to ask supplementary questions.

PRESIDENT (in Cantonese): Urgent Question 1.

Emergency Measures to Maintain Public Order and Protect Personal Safety

1. **MR TANG KA-PIU** (in Cantonese): *President, over the last two Fridays when the Finance Committee of this Council was scrutinizing the funding application relating to the North East New Territories New Development Areas,*

some of the protesters employed violent means and attempted to force their way into the Legislative Council Complex (the Complex). They charged at the police officers and security staff of the Legislative Council Secretariat (the Secretariat), causing injuries to a number of people (including more than 10 security staff of the Secretariat) and damages to certain facilities of the Complex. As the Finance Committee will continue to scrutinize the aforesaid funding application this Friday, and it has been reported that the protesters will resort to violent acts again, will the Government inform this Council of the emergency measures to be taken by the police for upholding the law as well as maintaining public order so as to protect the personal safety of the people, including police officers and security staff, present at the scene?

SECRETARY FOR SECURITY (in Cantonese): President, during the meeting of the Finance Committee of the Legislative Council on 13 June, protesters forced themselves into the Complex by violent means, causing damage to many parts of the building. They seized and pushed over mills barriers, charged their way into various entrances of the Complex, smashed the glass doors at different places and damaged the building facade. The fire prevention door of one of the emergency exits was broken. The protesters' storming caused interruption to the Legislative Council Committee meeting. Six security officers of the Legislative Council and four police officers were injured when carrying out their duties, and among whom, one security officer sustained a toe fracture. The protesters' violent acts posed serious threat to the personal safety of all those at the scene, which included Legislative Council Members, security officers and police officers on duty, and even members of the public whose original intention was to express their views in a peaceful manner, thereby causing severe damage to public order and public peace.

After the incident, the SAR Government and various sectors of the community strongly condemned the aggressive and violent acts of the protesters. The police are now conducting investigation into the incident as appropriate. The persons involved shall be held criminally responsible and brought to justice.

Security management within the Legislative Council precincts falls within The Legislative Council Commission (the Commission)'s purview, which is supported by the Secretariat. There are established measures on the part of Legislative Council in managing protest activities at the Complex and its surrounding areas. Under normal circumstances, the police will not take part in

Legislative Council's security management. It is only upon receipt of the Secretariat's request for assistance or a report shall the police, after giving notification to the Secretariat, enter the Complex. In dealing with a serious security problem or an emergency situation that may possibly occur, the Legislative Council may seek assistance from the police, which shall handle the issue in a proactive manner. The police would conduct comprehensive assessments on the public order events in question or any aggressive acts, and make appropriate deployment to respond to any incidents that may occur for maintaining public order and ensuring the safety of Legislative Council personnel and the public.

Members are concerned that protestors may stage another storming to the Complex by aggressive means this Friday. We understand that the Commission and Secretariat have held a meeting to discuss and review the storming of the Legislative Council that took place last Friday, and explore various ways to enhance the security measures inside and outside the Complex. In a bid to ensure public safety and public order, as well as to safeguard the safety of the public, the Secretariat is actively liaising with the police on security issues for the coming Friday in an effort to work out an effective arrangement and various contingency measures, in particular targeting the possible aggressive acts of certain people who are determined to storm into or force their way into the Complex.

Hong Kong is a law-abiding society. The Government respects the freedom and rights of the public under the Basic Law to processions and conduct peaceful assembly. In exercising the rights to express their aspirations, participants of public meetings and processions shall observe the laws of Hong Kong and conduct such activities in a peaceful manner. They shall not engage in any act to the detriment of public safety and public order. We have to reiterate that no violent acts shall be tolerated or spared. The police will take decisive actions against any acts in contravention of the law or in breach of public peace or public order, including immediate arrest, so as to ensure that public safety and public order are not to be jeopardized.

PRESIDENT (in Cantonese): Urgent Question 2.

Police's Handling of Protesters' Violent Acts Outside Legislative Council Complex

2. **MR IP KWOK-HIM** (in Cantonese): *On the night of last Friday, 13 June, the Legislative Council Complex (the Complex) was stormed by more than 1 000 protesters. In an attempt to force their way into the Complex, the protesters damaged the security facilities of the Complex, forcibly pulled away the mills barriers placed in the demonstration area outside the Complex, and tried to pry open the doors with bamboo poles. The violent attacks by the protesters have resulted in damages to several parts of the Complex and the early adjournment, due to security concerns, of the meeting of the Finance Committee of the Legislative Council, which was then scrutinizing the funding application relating to the North East New Territories New Development Areas, thus hindering the normal operation of the Legislative Council. Some people also impeded the Legislative Council Members' free entry into and exit from the Complex. Some people have threatened that they will storm the Complex again when the Finance Committee continues to scrutinize the aforesaid funding application this Friday, 20 June. In this connection, will the Government inform this Council:*

- (a) *whether the police have immediately reviewed their deployment at the Complex last Friday, in particular if the police manpower deployed to the scene was adequate; if they have, of the results;*
- (b) *how the police assess the possible risks of disruption of public order outside the Complex this Friday in order to make corresponding deployment; and*
- (c) *given the situation last Friday and the fact that some people have threatened that they will storm the Complex again during the Finance Committee meeting this Friday, whether the police have planned to increase the police manpower to be deployed, and to co-operate with the Legislative Council Secretariat (the Secretariat) on issues such as how to prevent protesters from violently storming the Complex, as well as ensuring that the Finance Committee meeting will not be interfered and the Legislative Council Members can enter and leave the Complex safely and freely?*

SECRETARY FOR SECURITY (in Cantonese): President, my reply to Mr IP Kwok-him's question is as follows:

- (1) Security management within the Legislative Council precincts falls within The Legislative Council Commission (the Commission)'s purview, which is supported by the Secretariat. There are established measures on the part of Legislative Council in managing protest activities at the Complex and its surrounding areas. Unlike other general public places, the Complex is under the management of the Legislative Council. Hence, under normal circumstances, the police will not arbitrarily enter the Complex and shall observe as far as possible the relevant procedures of the Legislative Council. Generally speaking, it is upon receipt of the Secretariat's request for assistance in handling incidents involving public safety, public order or law and order, or receipt of a report, shall the police, after liaising with the Secretariat, enter the Complex to render assistance.

During the meeting of the Legislative Council Finance Committee on 13 June, protesters stormed the Complex by violent means, causing damage to various parts of the Complex. The police took actions to respond to the storming and illegal acts. During the operation, the police arrested a total of 21 people suspected of obstructing officer of the Council while in the execution of his duty, interrupting the proceedings of a committee while the committee is sitting, obstructing police officers and assaulting police officers. Finally the police put the situation under control and removed 190 people from the scene. The operation was taken by the police in response to the request of the Secretariat for assistance to ensure public order and public safety.

After handling the violent storming incident, the police have drawn experience on a range of issues, including operational deployment, logistics arrangements, and liaison and co-operation with the Secretariat and security officers. The purpose is to respect the consideration and arrangements of the Legislative Council on one hand, and on the other to facilitate effective deployment by the police to handle and prevent recurrence of similar violent acts, so as to render assistance to the Secretariat in its response to serious security problems or emergencies.

(2) and (3)

Members are concerned about any possible violent acts by protesters to storm the Complex again this Friday. We understand that the Commission and the Secretariat have held a meeting to discuss and review the Legislative Council storming incident that took place last Friday, and explored various ways to enhance security measures inside and outside the Complex. The police will conduct comprehensive assessments on the public order events in question or any aggressive acts and make appropriate deployment to respond to any incidents that may occur for maintaining public order and ensuring the safety of Legislative Council personnel and the public. In a bid to ensure public safety and public order, as well as to safeguard the safety of the public, the Secretariat is actively liaising with the police on security issues for the coming Friday in an effort to work out an effective arrangement and various contingency measures, in particular targeting the possible aggressive acts of certain people who are determined to storm into or force their way into the Complex.

Hong Kong is a law-abiding society. The Government respects the freedom and rights of the public under the Basic Law to processions and peaceful assembly. In exercising the rights to express their aspirations, participants of public meetings and processions shall observe the laws of Hong Kong and conduct such activities in a peaceful manner. They shall not engage in any act to the detriment of public safety and public order. We have to reiterate that no violent acts shall be tolerated or spared. The police will take decisive actions against any acts in contravention of the law or in breach of public peace or public order, including immediate arrest, so as to ensure that public safety and public order are not to be jeopardized.

PRESIDENT (in Cantonese): Urgent Question 3.

Police's Handling of Protesters Outside Legislative Council Complex

3. **DR FERNANDO CHEUNG** (in Cantonese): *On the 13th of this month, when the Finance Committee of this Council was scrutinizing the funding application relating to the North East New Territories New Development Areas, more than 1 000 villagers who would be affected by the project concerned and other members of the public staged protests outside the Legislative Council Complex (the Complex), urging the Government to withdraw the related funding application. Some of the protesters attempted to enter the Complex and thus clashed with the police officers at the scene. The police subsequently cleared the scene. A reporter alleged that the police carried him away from the scene by force and some protesters also alleged that the police inflicted pain on them by bending their joints. In addition, some protesters and personal assistants of Members were arrested by the police and some of them claimed that while they were on police vehicles, some police officers hurled abuse at them, beat them with fists, hit their heads, spat at them, slapped them and pulled their hair. Given that the Finance Committee will continue to scrutinize the aforesaid funding application this Friday and there may be conflicts again as it has been reported that there will be protests again, whether the Government has immediately reviewed if the practices of the police in clearing the scene last Friday (including removing a reporter from the scene, and the process of bringing protestors back to the police station) were in compliance with the Police General Orders, particularly the principle of using minimum force; and whether it has put in place specific measures to further ensure that the law-enforcement actions to be taken by the police for handling the protests this Friday will comply with the Police General Orders?*

(Mr WONG Kwok-hing stood up)

MR WONG KWOK-HING (in Cantonese): *President, I have a point of order. When asking oral questions, should Members make a declaration if they have alleged conflicts of interests and roles? As evident from press reports, this urgent question of Dr Fernando CHEUNG is related to his assistant. I would like to ask the President whether the Member is required to declare interest.*

PRESIDENT (in Cantonese): According to the Rules of Procedure, it is for individual Members to judge whether they have a conflict of interest.

(Mr Kenneth LEUNG stood up)

MR KENNETH LEUNG (in Cantonese): *I have a question regarding the point of order raised by Mr WONG Kwok-hing. President, should "interest" be restricted to direct pecuniary interest?*

PRESIDENT (in Cantonese): Members should fully understand the provisions of the Rules of Procedure. I hope I do not have to explain to Members in each and every Council meeting. I must reiterate that it is for individual Members to judge whether they should declare interest before speaking or asking questions. Secretary for the Security, please give your reply to Dr Fernando CHEUNG's urgent question.

SECRETARY FOR SECURITY (in Cantonese): President, my reply to Dr Fernando CHEUNG's question is as follows:

During the meeting of the Finance Committee of the Legislative Council on 13 June, protesters forced themselves into the Complex by violent means, causing damage to various parts of the building. They seized and pushed over mills barriers, charged their way into various entrances of the Complex, smashed the glass doors at different places and damaged the building facade. The fire prevention door of one of the emergency exits was broken. The protesters' storming caused interruption to the Legislative Council Committee meeting. Six security officers of the Legislative Council and four police officers were injured when carrying out their duties, and among whom, one security officer sustained a toe fracture. The protesters' violent acts posed serious threat to the personal safety of all those at the scene, which included Legislative Council Members, security officers and police officers on duty, and even members of the public whose original intention was to express their views in a peaceful manner, thereby causing severe damage to public order and public peace.

The actions taken by the police that day were in response to the Legislative Council Secretariat's request for assistance. By means of their actions, which

were in line with the established policy of using minimum force, the police had effectively stopped the violent storming, ensured the personal safety of Legislative Council personnel and the public, as well as maintained public order. The police's actions were lawful, necessary, reasonable and appropriate.

The police reiterate that they respect press freedom and the media's freedom of reporting, and fully recognize the importance of facilitating media coverage and maintaining effective communication with the media. The police will, on the basis of mutual respect and understanding, continue to maintain a cordial relationship with the media and render all possible assistance to enhance mutual co-operation.

For the accusations against police officers in Dr CHEUNG's question, it will be unfair to both sides if we draw any conclusions before a thorough investigation is conducted. Any grievances over the police's enforcement action may be taken to the Complaints Against Police Office (CAPO) according to the procedures stipulated in the law. The CAPO operates independently from other police formations to ensure impartiality in its investigation. It is responsible for handling and investigating public complaints against members of the Police Force. By adhering to the established procedures, the CAPO investigates and handles complaints in a fair and impartial manner, and their investigations are subject to review by the statutory Independent Police Complaints Council.

PRESIDENT (in Cantonese): Urgent Question 4.

Comments on Internet Instigating People to Storm Legislative Council Complex

4. **MS STARRY LEE** (in Cantonese): *President, last Friday, when the Finance Committee of this Council was scrutinizing the funding application relating to the North East New Territories New Development Areas, a clash erupted outside the Legislative Council Complex (the Complex), which was the fiercest in recent years. Protesters stormed at various entrances of the Complex, resulting in damages of various facilities of the Complex as well as a number of people being injured and arrested. The Finance Committee will continue its scrutiny of the aforesaid funding application this Friday. Some*

netizens who claimed to have participated in the said storming called on others, through Internet forums, to participate in besieging the Complex again. They even disseminated action guidelines teaching people openly how to besiege the Complex, how to break tempered glasses, how to use mills barriers and fire extinguishers as weapons, and how to deal with pepper spray attacks, and so on. These netizens also displayed the structural plan of the various entrances of the Complex, explained how to break through the entrances and even said clearly that "there is no need to worry about the safety of those behind the glasses". In this connection, will the Government inform this Council:

- (a) whether the police have immediately assessed if such seditious comments on the Internet have increased the risks of disruption of public order outside the Complex this Friday; if the assessment outcome is in the affirmative, of the details and the police's corresponding deployment plans; and*
- (b) whether the police will take actions expeditiously to curbs such acts on the Internet of teaching other people how to use weapons, encouraging the participation in the storming of the Complex, and instigating the deliberate infliction of bodily harm on other people; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): President, my reply to Ms Starry LEE's question is as follows:

The police are highly concerned about the online posts which give guides on storming the Legislative Council and have proactively launched an investigation.

On another front, a report was received on 17 June about a message issued in the social media to call on the people to storm the Legislative Council. The case, classified as a "Request for Police Assistance", is being followed up by the Technology Crime Division under the Commercial Crime Bureau.

Dissemination of false messages or messages inciting others to commit a crime via the Internet may, subject to actual circumstances, constitute an offence of access to computer with criminal or dishonest intent under section 161 of the

Crimes Ordinance (Cap. 200) (CO), which will render the offender liable on conviction upon indictment to imprisonment for five years.

Besides, according to section 89 of the Criminal Procedure Ordinance (Cap. 221) (CPO), any person who aids, abets, counsels or procures the commission by another person of any offence shall be guilty of the like offence. Under common law, inciting others to commit any substantive offence is itself an offence.

The police would like to remind the public that most of the laws that apply to the real world are also applicable to the Internet world. Members of public should use the Internet in a lawful and responsible manner.

The Legislative Council Commission (the Commission), Legislative Council Secretariat (the Secretariat) and the police have drawn experience from the violent storming that took place last Friday. The police will conduct comprehensive assessments on the public order events in question or any aggressive acts and make appropriate deployment to respond to any incidents that may occur for maintaining public order and ensuring the safety of Legislative Council personnel and the public. In a bid to ensure public safety and public order, as well as to safeguard the safety of the public, the Secretariat is actively liaising with the police on security issues for the coming Friday in an effort to work out an effective arrangement and various contingency measures, in particular targeting the possible aggressive acts of certain people who are determined to storm into or force their way into the Complex. I am making this appeal to the public once again that, in exercising the rights to express their aspirations, protesters must observe the laws of Hong Kong and conduct such activities in a peaceful manner. They should not engage in any act to the detriment of public safety and public order. The police will not tolerate any violent acts; and will take decisive enforcement actions and effective measures against any acts in contravention of the law to restore public order.

PRESIDENT (in Cantonese): I now invite the four Members who have asked the urgent questions and other Members to ask supplementary questions. There are already 27 Members who have requested to raise supplementary questions. I will try to give all Members who have made such request an opportunity to raise supplementary questions. I must remind Members that no debate is allowed during the oral questions (including urgent questions) session, and Members

should refrain from expressing their views. I will stop the Member concerned if I hold that he is expressing his views, rather than asking a question. Will Members please be concise when they speak so that other Members also have the opportunity to ask supplementary questions.

MR TANG KA-PIU (in Cantonese): *President, I ask this urgent question because I am concerned about the staff of the Legislative Council who have been working with us, including staff members and security officers of the Secretariat. As the Council's work gets more hectic, their working hours also become longer. But I think they never reckon that their work would in fact be so dangerous and they might have their bones fractured as the Complex was stormed repeatedly ...*

PRESIDENT (in Cantonese): Mr TANG, please ask your supplementary question.

MR TANG KA-PIU (in Cantonese): *My supplementary question is: I note from the Secretary for Security's main reply that "the Secretariat is actively liaising with the police on security issues for the coming Friday in an effort to work out an effective arrangement and various contingency measures". Today is Wednesday, and it will be Friday soon. How can the authorities ensure the safety of members of the public? Security officers of the Legislative Council are also members of the public. How can they withstand the storming with bare hands and bodies? What measures and proposals will be adopted by the authorities to ensure the safety of security officers of the Legislative Council so that they can work with peace of mind?*

SECRETARY FOR SECURITY (in Cantonese): President, I must emphasize that the precincts of the Legislative Council are different from general public places. Hence, when formulating any contingency measures in relation to large-scale public events, we must take into account the co-ordination with the Secretariat. As just mentioned by Mr TANG, we must certainly safeguard the personal safety of security officers. In fact, the purpose of any security arrangement is to ensure the personal safety of all persons at the scene.

Regarding the storming incident on that day, as I have mentioned in the main reply, day-to-day security management of the Complex and its surrounding areas falls within the Commission's purview, and the police will not take part in it. Last Friday, the police only adopted the relevant measures upon the request made by the Secretariat. Hence, the arrangements and deployment which the police can make inside the Complex are different from those in general public places. Having summed up the relevant experiences, the Secretariat has held a meeting with the police to examine the arrangements in various aspects, for example, as I just mentioned, the ways to establish more effective means of communication, the deployment and stationing of personnel, as well as the means to ensure better co-ordination. It is hoped that with co-ordination between the police and the Secretariat, the overall security management can help prevent radical protestors from storming the Legislative Council by aggressive means. First of all, we must prevent such incidents from happening. Second, in case of incidents, they would be dealt with effectively. That is really the best way to ensure the safety of all persons concerned.

MR IP KWOK-HIM (in Cantonese): *President, in the main reply, the Secretary stated that in a bid to ensure public safety and public order, the parties concerned would "work out an effective arrangement and various contingency measures, in particular targeting the possible aggressive acts of certain people who are determined to storm into or force their way into the Complex". As we can see, some people have made public appeals about disregarding the safety of those behind the glasses because they are not friends, while some have displayed site plans of the Complex marking major points of attack, including offices of Members of the Democratic Alliance for the Betterment and Progress of Hong Kong. Some Members of the pan-democratic camp have said publicly that they have no idea who have initiated the trouble and spread the ideas of attacks and aggressive acts, and they wonder if the culprits are on LEUNG Chun-ying's side. Some even said that "Grandpa" is the mastermind behind the disturbances and attacks. I do not care who is behind the scene ...*

PRESIDENT (in Cantonese): Mr IP, please ask your supplementary question.

MR IP KWOK-HIM (in Cantonese): *... as their actions will be judged by the public. But the matter which I am most concerned about and would like to*

convey to the Secretary is that the Council has already come under possible threats of violent attacks. Last Friday, 20-odd big guys stood outside the offices of a number of Members, and our staff have concerns about their personal safety. Complaints have also been made by the staff of the Legislative Council.

PRESIDENT (in Cantonese): Mr IP, please ask your supplementary question immediately.

MR IP KWOK-HIM (in Cantonese): *I would like to ask the Secretary: Subject to the permission of the Secretariat, will the police provide close protection to ensure the personal safety of Members, staff of the Legislative Council, as well as peace-loving Members' assistants?*

SECRETARY FOR SECURITY (in Cantonese): President, the police will definitely conduct risk assessments when formulating its deployment plans in respect of any large-scale public events. Regarding the planned storming of the Complex which is likely to take place this Friday, the police will fully consider the relevant risks. For instance, the risks to be considered include whether some people will storm the Complex in a more organized and determined way; whether some radicals will deliberately hijack the entire demonstration with the intention of forcing their way into the Complex and disrupting the normal operation of the Legislative Council; and whether some radicals will carry aggressive tools with them. Of course, I just give some examples to illustrate that the police would fully consider all the risks involved in various aspects before formulating forceful and effective deployments. Nonetheless, I must stress that the precincts of the Legislative Council are different from general public places, and we must respect the rights and protection given to the Legislative Council by law. According to the Basic Law, the Legislative Council is an independent entity with a special status. Hence, the police must consider the views of the Council when making its deployment.

Regarding the question just asked by Mr IP, it would of course be ideal if the Secretariat and the police can reach an agreement after discussion about the specific actions to be taken, so that the police can effectively handle the possible violent attacks on Friday. In fact, both sides are working proactively in this regard.

Regarding day-to-day security management, it falls under the purview of the Secretariat. The police will only play a role upon requests made by the Secretariat if it considers that risks may arise from some large-scale public order events. Nonetheless, when taking part in any action plans formulated by both sides after communication and discussion, the police must be allowed to deal with the major incidents in question effectively.

MR IP KWOK-HIM (in Cantonese): *President.*

PRESIDENT (in Cantonese): Mr IP, please sit down first. Although Members may find the Secretary's reply unsatisfactory, I cannot allow them to ask further questions because some 30 Members are still waiting for their turn. If Members want to avoid the situation where the Secretary's reply is not directly related to their supplementary questions, the best way is to ask their supplementary questions in a concise, clear and direct manner without expressing their views excessively such that the Secretary may lose focus.

DR FERNANDO CHEUNG (in Cantonese): *President, the Secretary has not answered my question. I am asking whether the Government has immediately reviewed the practices of the police in clearing the scene last Friday, including removing a reporter from the scene by force, beating and hurling abuse at the protestors when bringing them back to the police station, and so on. But in the main reply, he only said that as no thorough investigation has been conducted, he would not draw any conclusions on the allegations. I am asking him whether investigations have been conducted ...*

PRESIDENT (in Cantonese): Please ask your supplementary question.

DR FERNANDO CHEUNG (in Cantonese): *I would like to ask if a comprehensive and thorough investigation will be conducted on the use of force by the police in removing a reporter from the scene, and the allegations made by some protestors that they were beaten while in custody?*

SECRETARY FOR SECURITY (in Cantonese): President, when clearing the scene, the police adhered to the general principle of using minimum force for the intended purpose. As Members could see clearly from the television, the police acted in a very restrained manner on that day. Moreover, when clearing the scene, several police officers would be deployed as far as practicable to remove individual protestors. Of course, if the protestors are resisting or struggling in the course of removal, the police can do nothing but make their best effort to ensure that the scene is cleared in a safe and smooth manner.

Regarding the complaints of assault, there are established procedures to deal with them. I must stress that without any investigation, these allegations made unilaterally are unfair to both sides. Upon investigation and consideration of the testimony from witnesses on both sides, the Complaints Against Police Office (CAPO) will certainly draw a conclusion on the allegations and then refer the case to the Independent Police Complaints Council (IPCC) for the purpose of ensuring fair and impartial monitoring.

Also, the police are highly concerned about the allegation that a reporter was removed from the scene, and follow-up actions will be taken accordingly. According to the initial information that we have, the police was not aware that the person in question was a reporter because he had not displayed his press card. Moreover, the scene was very noisy. I think Dr CHEUNG might also be at the scene at some point of time and was aware that the scene was extremely chaotic with loud background noises. Of course, the police will review the case. But I must stress that the police attach great importance to the matter and had instructed police officers to facilitate the reporting of reporters as far as practicable in the course of their actions. As we can see, various media organizations had provided comprehensive live coverage of the events on that day.

MS STARRY LEE (in Cantonese): *President, I am holding a copy of the "Guidelines on Storming the Police Defence" found on the Internet, which includes tips reminding the protestors to bring along aerosol paints, cable ties, lighters and fire extinguishers. What are the purposes? The protestors can spray the aerosol paints onto the face of public security officers and burn the cable ties with lighters. The last part of the guidelines even contains points to note on the breaking of glasses, such as "the use of mills barriers is highly welcomed when breaking thick glasses", "public security officers are not your friends" ...*

PRESIDENT (in Cantonese): Ms LEE, please ask your supplementary question as soon as possible.

MS STARRY LEE (in Cantonese): ... *"there is no need to worry about the safety of public security officers behind the glasses". President, here is my question: As the above guidelines are extremely terrifying and serve the specific purpose of instigating others to storm the Legislative Council with even more effective tactics, I would like to ask the Secretary whether such acts of instigation and dissemination of information have actually contravened the CPO, as stated in the main reply?*

SECRETARY FOR SECURITY (in Cantonese): President, thanks to Ms LEE for the question. First of all, the police have already initiated investigation immediately. As I pointed out in the main reply just now, according to the existing laws including the CO, dissemination of false messages or messages inciting others to commit a crime via the Internet may constitute an offence under section 161 of the CO, or an offence under the CPO in relation to aiding or abetting others to commit an offence.

Regarding the legal issues concerning the authentication of evidence collected on the Internet and whether there is sufficient evidence to hold the person responsible for such acts, we will leave it to the police for investigation. Nonetheless, the police have already contacted the webmaster of the relevant discussion forum site and these so-called "messages" have been deleted. Of course, once a message is disseminated on the Internet, it can most likely be found elsewhere. Nonetheless, the police have already taken actions immediately to remove these messages which were considered to be ill-intended and unorthodox.

Separately, targeting these so-called tactics which appear on the Internet, the police have made reference to previous experience and drawn up the worst-case scenario as well as the corresponding contingency plans. The police's outstanding performance and achievement in handling large-scale public order events has been well evident. For example, in 2003, violent actions had been taken by Korean farmers when holding demonstrations in Hong Kong. The police's exceptional handling of that incident had gained worldwide

recognition. Hence, I am totally confident that the police are capable of handling these risks.

MR WONG KWOK-KIN (in Cantonese): *President, if allegations against the police as mentioned in Dr Fernando CHEUNG's question are substantiated, the authorities must of course follow up and deal with the relevant cases. Nonetheless, I have the impression that after the occurrence of large-scale confrontation or scenes of violence, some people would invariably claim that they have been manhandled by the police or treated with excessive violence. But after investigation, it seems that not many cases are substantiated by actual evidence. Under the circumstances, one cannot help but suspect that such allegations are intended to divert attention and focus of society because the public are strongly against such violence ...*

PRESIDENT (in Cantonese): Mr WONG, please ask your supplementary question.

MR WONG KWOK-KIN (in Cantonese): *... Hence, I would like to ask the Secretary if the police had, in the past, conducted any thorough investigation into these acts intended to win public sympathy, in order to ascertain whether the alleged incidents had actually happened. If the allegations are unfounded, will the persons making the allegations be charged with making false accusations against the police; if no charge is brought against those persons, would they have the impression that no cost is incurred for perpetuating such acts?*

SECRETARY FOR SECURITY (in Cantonese): President, any person who is dissatisfied with the police's actions can file a complaint with CAPO. If the complaint filed with CAPO proves to be unfounded after investigation, he has contravened the laws of Hong Kong because it is an offence to provide false information to police officers. Of course, stringent standards apply in relation to CAPO's investigation procedures. But there are actually some past cases where prosecutions were brought against complainants who made overly exaggerated and far-fetched false complaints. Whenever such prosecutions occurred, the public would learn about them from news reports.

I must emphasize that no action would be taken by the police before any complaint is received. Of course, the police would, as a routine, review the lessons learnt from each large-scale operation, so as to ensure better deployment when handling similar incidents in future. The police will continue to adopt the same approach in this regard.

Let us take a look at the statistics. In 2013, there were about 200 assault complaints against police officers. But of the investigation cases reviewed and confirmed by IPCC in 2013, no assault complaint was substantiated. I put forth these statistics for Members' reference.

MR KENNETH LEUNG (in Cantonese): *President, whenever there is an emergency in the Complex, contingency arrangements would be made by the police. But Members actually find these arrangements quite unintelligible and confusing. On account of this incident, will the police consider signing a memorandum with the Commission in order to set out more specific and formalized guidelines on various arrangements, including when and under what circumstances can the police enter the Complex for the purpose of law enforcement?*

SECRETARY FOR SECURITY (in Cantonese): *President, I believe that issues in these two areas are being studied by both parties. As far as the existing arrangements are concerned, I would like to reiterate that the management of the Complex and its surrounding areas falls within the Council's purview, while the areas under the management of the Council have also been specified in the Legislative Council (Powers and Privileges) Ordinance (the P&P Ordinance). The Legislative Council is responsible for the security arrangement of the areas under its management, and the police will not take part in it. It is only when the Secretariat specifically makes a request to the police for assistance and after liaising with the Secretariat on the specific actions required that the police shall take corresponding and proactive actions as per the Secretariat's request.*

The practice is based on several laws. First, according to the Police Force Ordinance, the police shall be responsible for preserving order in public places, maintaining public order and preserving public peace. Second, the Public Order Ordinance has also expressly provided that the police shall protect public order, public safety as well as the rights of individuals in their day-to-day living. In

addition, the police must, as far as possible, strike a balance between allowing members of the general public to express their views and minimizing the impact on all parties concerned.

PRESIDENT (in Cantonese): As Mr CHAN Hak-kan is not in the Chamber now, Mr CHAN Han-pan, please ask your supplementary question.

MR CHAN HAN-PAN (in Cantonese): *President, in the past, some protestors participating in violent storming activities might invariably resort to the tactic of "thief crying thief" after they were arrested, possibly because they were dissatisfied with the police. They not only made all sorts of accusations against the police's actions, but also lodged complaints against the police officers concerned. As a result of these unilateral accusations, law-abiding law enforcement police officers might be subject to investigation and hence, their morale could be affected. I would like to ask the Secretary what measures can be taken to protect front-line police officers from getting into trouble as a result of groundless accusations?*

SECRETARY FOR SECURITY (in Cantonese): President, the CAPO has indeed come across similar situations as described by the Member in his question. In general, some people under arrest may lodge technical complaints or strategic complaints in police jargon. For instance, people under arrest for robbery might confess to the police about the crimes they committed. But when the criminal case is on trial, the defendants would say that their testimony had been obtained under threat or coercion. Hence, under normal court proceedings, there is a judicial procedure specifically intended to consider whether a testimony has been obtained under normal circumstances.

We can see that this is indeed a means used by some people under arrest for the sake of self-defence, that is, the making of tactical complaints. When sharing our experience with overseas countries, we note that the same situation can also be found in other places. In my view, it is most important to protect the rights of both sides, that is, the complainant's as well as the complaine'e's. The best safeguard is to ensure that investigation will be conducted in a fair and impartial manner, and the finding of investigation will be subject to review by independent persons to ascertain its fairness and impartiality. It is the CAPO's

duty to conduct investigations in a fair and impartial manner, and the IPCC has the statutory function of monitoring the CAPO's investigations independently.

MR ALAN LEONG (in Cantonese): *President, we must exercise the power of the powerless in face of the dictators' hegemony. As always, the Civic Party's attitude is that we will neither talk back nor strike back. We also hope that other powerless people will follow suit. Last Friday, we saw that some people had resorted to wilful acts of violence in order to smear a peaceful resistance campaign. I notice that in the small hours of the day, even though some protestors — true to the spirit of "neither talking back nor striking back" — were just sitting quietly inside the public demonstration areas in the Legislative Council, they were still carried away by the police one after another.*

I would like to ask the Secretary if the police will still carry away protestors one by one if they merely stage sit-in protests this Friday with the attitude of "neither talking back nor striking back".

SECRETARY FOR SECURITY (in Cantonese): President, regarding the situation just mentioned by Mr LEONG, first of all, I would like to remind Members that — if the President would allow me to repeat — when President Jasper TSANG met the media, he had clearly explained the circumstances on that day. First, as requested by the Secretariat, the police entered the Complex to standby. Second, when the Council considered that the situation had deteriorated sharply and worried that things would be going out of control, another request was made for the police's intervention at around 9 pm. Separately, at 2.15 am, the Commission requested the police's assistance in removing the persons concerned. Hence, the police's actions on that day were taken as per the requests of the Secretariat. The above serves to answer Mr LEONG's question about the situation on that day.

Regarding the situation this Friday, I must leave the decision to the police officers in charge of maintaining order and security at the scene. They will come to a conclusion after properly analysing the actual circumstances at that time.

MR CHAN KIN-POR (in Cantonese): *President, having reviewed the videotapes, I am most shocked to find that the incident was actually orchestrated through "inside/outside collaboration". Some radical Members had resorted to radical actions in the past, and I think most Members would not be surprised. But in this incident, some moderate Members and their assistants had actually taken part in the action, for example, a person had shown others how to ram a door in the Complex with his wheelchair, and some Members had disseminated information on the Internet teaching others how to besiege the Complex. Meanwhile, many young people have absolutely no idea that their actions had already been videotaped by many parties, and their actions might have already contravened the law. All these could have a great impact on their prospects.*

I would like to ask whether the Secretary Bureau have any means or channels to make the public understand that even though young people are just doing something they consider to be righteous, their entire life and future prospects will be affected if their actions have violated the laws of Hong Kong, especially the acts of storming the Complex, such as removing mills barriers, providing tools, charging at the security guards, and so on. I hope the Secretary can explain their criminal liabilities clearly.

SECRETARY FOR SECURITY (in Cantonese): President, thanks to Mr CHAN for the question. When members of the public participate in large-scale public events and have taken some violent storming actions, the offence committed will, to a great extent, depend on the actions actually taken at the time. If simply judging from what we see on the videotapes, some people were ramming or trying to pry open the doors of the Complex. As properties are protected by the laws of Hong Kong, the persons concerned might have committed the crime of criminal damage.

Secondly, according to the Public Order Ordinance, for any public meeting with attendance of more than 50 persons, a prior notice should be given to the police. According to the provisions in the Public Order Ordinance, it is an unlawful act to hold such a meeting without giving the required notice.

Separately, as the precincts of the Legislative Council are regulated and protected under the P&P Ordinance, if any person obstructs or assaults officers of the Council in carrying out their duties, he has definitely committed a crime and might be liable to imprisonment for 12 months.

Regarding the specific crimes involved, it may take a while for me to list out all the relevant crimes in detail. Take for example the acts of an individual. If a person obstructs or assaults a police officer while he is carrying out duties in accordance with the law, that person has definitely committed crimes such as obstructing the police in the execution of their lawful duties, assaulting police officers, and so on. While the penalty imposed on each crime varies, according to the Public Order Ordinance, the offender of some crimes may be liable to imprisonment for as long as five years, and longer sentence of imprisonment may be meted out for more serious offences.

Hence, I must make it clear that it is most important for members of the public to abide by the law and express their views in a peaceful and lawful manner. If a person has committed a crime and is convicted, no matter what the sentence is, he may have a criminal record. While it is true that if only minor offences are involved with the sentence imposed being imprisonment for less than three months or a fine of less than \$10,000, the offender may be given a spent conviction, that is, his criminal record will be spent after three years under normal circumstances, it is very likely that his past criminal record would still be considered by the relevant parties if that person applies for immigration or employment. Hence, I want to reiterate my advice to all members of the public that while we welcome Hong Kong citizens to exercise their legal rights in expressing their views, they must abide by the law and act peacefully. Otherwise it may have a far-reaching consequence in terms of their legal liabilities and future criminal records.

MR JAMES TO (in Cantonese): *President, I am concerned about a reporter of Radio Television Hong Kong being taken away by several police officers by force while he was filming at the scene. Throughout the process, he was beaten by police officers even though other reporters at the scene had revealed his identity as a reporter to the police officers. The reporter also said that he had the press card, but the police officers indicated that this point was irrelevant as he was standing too close to the front.*

President, my supplementary question is: How did the police enforce the law under these situations, could police officers carry a reporter away from the scene by force and assault him merely because they considered that person standing too close to the front? Furthermore, given that the police have continued to assault the person even after knowing his identity as a reporter, has

the police given any regard to the freedom of the press? Will the authorities hold discussion with the Hong Kong Journalists Association or other organizations representing front-line reporters in due course, so as to explore ways to ensure that reporters can carry out their work smoothly while the police can still perform their duties?

SECRETARY FOR SECURITY (in Cantonese): President, I must point out at the outset that according to the information in hand, a reporter was taken away on that day. But we did not receive any allegation of assault. When handling these large-scale public order events, the police have all along respected press freedom and the freedom of reporting. As Members can see, the media were able to cover the previous large-scale events in a smooth and comprehensive manner. All these can be seen from news reports on the television.

I must reiterate that the police's actions on that day were different from its usual deployment in preparation for upcoming public order events. Normally, the police will consider various factors, including the risks involved and how to identify reporters, and so on. But as I have stressed all along when answering questions from a number of Members just now, the police responded to the Secretariat's request for assistance to handle the incident. What is the difference between the two scenarios? For incidents taking place in general public places, the police will consider all factors concerned, including the location and size of the demonstration area, the necessary manpower deployment, and so on. The police will make all these logistical arrangements in advance and formulate suitable contingency measures according to the potential risks. But on that day, the police were called to standby in the first instance, and when the second request was received, the police were required to deal with the violent actions that had already taken place.

I hope Members can see the difference between the two, as well as the dedicated efforts made by the police. Should similar situations happen again, say, this Friday, we will of course discuss with the Secretariat in advance the detailed deployments and arrangements. I would also like to thank Mr TO for his suggestion on how to assist the reporters in covering the incidents. In fact, the police attach great importance to facilitating and assisting the reporting by news media. We have also implemented many new measures, including the establishment of Media Liaison Teams. If considered necessary after evaluation of the situation, the police will make the necessary arrangements to activate the

work of Media Liaison Teams. Nonetheless, as the police acted in response to requests on that day, there was no time to make these prior arrangements properly.

Second, in case the police hold that media coverage is required for certain events, the commander-in-charge at the scene may allow reporters to report on the event within the action area if he considers appropriate, or he may consider setting up press zone within the action area to facilitate the work of reporters. Inside the action area, reporters may be positioned between police officers responsible for taking actions and the radicals or offenders who are the target of the police. As the police must go past reporters before actions can be taken, the situation may then become chaotic, a scene which nobody wants to happen. Hence, suitable arrangements within the action area will be made by the commander-in-chief at the scene, so that reporters can cover the events from favourable locations inside the action area without obstructing the police's work. The most important point is that we do not want to have any reporter sustaining injuries during the commotion that might happen.

Regarding the relationship between the police and the media as mentioned by Mr TO, much work has actually been done by the police. For example, the Police Public Relations Branch will arrange front-line reporters to meet with front-line police officers on a regular basis. As far as I know, such a meeting was held in March, during which reporters and front-line police officers exchanged views on various co-ordination matters. This demonstrates the police's proactive efforts in ensuring co-ordination with the media in this regard.

MR JEFFREY LAM (in Cantonese): *President, peaceful demonstrations have always been allowed by the Legislative Council. However, from what we saw last Friday, the protestors were obviously well-prepared. Some people damaged the Council's facilities and then used the steel rods detached to tamper with other facilities, such as the glass panels and front entrance; some even resorted to storm the Complex with means that we have never thought of.*

I would like to ask the Secretary how the authorities can protect the personal safety of Members of the Legislative Council, as well as the staff working in the Council, or even visitors to the Council. In addition, how can the authorities foil the attempt of those people who intend to sabotage the Complex

and prevent them from carrying offensive weapons or tools into the precincts of the Legislative Council?

Besides, when Members and staff of the Legislative Council were leaving the Complex on that night, they met with serious obstruction. Some protestors even positioned long horns close to their ears, and if the horns were blown, it might easily ...

PRESIDENT (in Cantonese): Mr LAM, you have already asked one supplementary question just now.

MR JEFFREY LAM (in Cantonese): *Okay, simply put, how can the authorities protect the personal safety of Members and staff of the Legislative Council, as well as other members of the public?*

SECRETARY FOR SECURITY (in Cantonese): President, first of all, concerning the situation where some people who are radical or with violent tendencies carry violent tools with them at protest and may harm others, in fact, as I have mentioned earlier when answering other Members' questions, the police has conducted a comprehensive and thorough assessment on the potential risks in the present case. The police have definitely taken into consideration the risks involving the presence of people who are radical and with violent tendencies, and whether they have carried with them violent tools into the demonstration area. Hence, these factors would definitely be taken into account by the police when formulating its contingency plans.

I must emphasize that in carrying out duties, especially in handling large-scale public order events, the police have all along adhered to the principle and concept of "preventing" the outbreak of violent acts, rather than adopting a defensive approach after incidents have happened. In other words, prevention is always the best approach to handle processions and demonstrations. We can only stop the spread of violence successfully through prevention. When we exchange experiences with overseas countries, they often suggest that the problems should be nipped in the bud. In other words, the problems should be immediately resolved right from the start. Hence, any security and contingency measures should premise on the basis of prevention. I hope that in future liaison

between the police and the Secretariat, this concept can be adhered to when formulating the overall security plans and contingency measures. Let me reiterate that when the Secretariat requested for assistance from the police on that day, the storming incident had already happened. Hence, as far as prevention is concerned, we hope that in the coming Friday, the police can adhere to its established principle and apply the practical experience gained in the past.

DR CHIANG LAI-WAN (in Cantonese): *Last Friday, as Members were preparing to leave the Complex from the car park after the meeting, someone drove dangerously and wilfully overtook the preceding car in an attempt to block Members' exit. The said vehicle then parked sideways. At that time, Members had no idea what had happened, and they were frightened that someone might charge at them, resulted in some emergencies or untoward incidents. As such, I hope the President can liaise with the authorities on how to prevent similar incidents from recurring in future. On that day ...*

PRESIDENT (in Cantonese): Dr CHIANG, please ask your supplementary question.

DR CHIANG LAI-WAN (in Cantonese): *... Members had to leave the Complex on foot eventually, and on their way, many Members had been harassed by some people in the crowd. I would like to ask the Secretary how the personal safety of Members can be protected.*

SECRETARY FOR SECURITY (in Cantonese): President, first of all, Members' right to enter and leave the precincts of the Council has been protected under the P&P Ordinance. Hence, I hope the persons concerned can file a report to the police about the aforesaid incident, because as I have said just now, the Secretariat is responsible for the day-to-day security arrangements of the Complex. When handling cases about Members being obstructed from entering or leaving the precincts of the Council, the police will generally act in accordance with the procedures for handling reports made by individuals. As a matter of fact, the police have received report made by members of the public about four Legislative Council Members being obstructed from leaving the car park of the Complex on that day. We are now dealing with the case, and one suspect has

been arrested. As I said just now, the Secretariat is responsible for the day-to-day security management of the Complex. In case the Secretariat requests for our assistance, we will provide assistance as per the request, especially when large-scale public order events are being held. We would provide assistance to the Secretariat on the grounds of public order and public security.

MR ANDREW LEUNG (in Cantonese): *President, we are both members of the Commission, and I am worried and concerned about the safety of the staff because the Commission is obliged to provide a safe working environment for the staff. Every day, 500 staff members of the Secretariat, 200-odd Members' assistants, 100-odd reporters as well as the employees of other contractors are working in the Complex, and the safety of their working environment is now under threat and challenge. As pointed out by Mr CHAN Kin-por, the incident was actually orchestrated through "inside/outside collaboration". People we meet on a daily basis have suddenly committed some unpredictable acts; some Members' assistants even transported items used in demonstration from their offices to the ground floor. Of course, these people may consider that they have done nothing wrong. But the staff members I mentioned just now also have their own families, and their family members would be concerned and anxious about their safety. In fact, when several security officers walked to the MTR station after work on that day, some people had followed them, splashed water onto them and hit their heads. Of course, these security officers had reported to the police. But as learnt by the President at yesterday's meeting, these security officers were so afraid that they had withdrawn their reports because while it is known to all that they work in the Legislative Council, they have no idea who the attackers are. The security officers can easily get into trouble, as in the case of revenge attack by triad members. Of course, as just mentioned by some colleagues, some Members had also been followed as they left the Complex on foot ...*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR ANDREW LEUNG (in Cantonese): *My question is: What can be done by the Government to protect our staff from harassment so that they can go home safely after work?*

SECRETARY FOR SECURITY (in Cantonese): President, I must reiterate again, the day-to-day security management of the Complex falls under the purview of the Legislative Council, and the police will only intervene upon receiving a request for assistance. In particular, the police or the Government plays no role when it comes to the discipline, conduct or behaviour, be it right or wrong, of persons working in the Council; these are the internal affairs of the Council. Of course, the police is duty-bound to protect the personal safety of each person. Hence, firstly, if any person feels that his personal safety is under threat, he can report to the police. The police will take appropriate actions to handle his complaint and make suitable arrangements to protect his personal safety. In addition, if any person feels that he has been exposed to danger in certain situations, such concerns and circumstances would of course be taken into consideration by the relevant parties when formulating the overall security arrangements.

If any staff working in the Legislative Council has any views in this regard, the best way is to inform the Secretariat so that the relevant matters can be considered by the Secretariat and the police during their negotiation. With risk assessments in different areas undertaken by both sides, effective deployment would be made accordingly.

MS EMILY LAU (in Cantonese): *President, I would like to further follow up on the incident involving a reporter being taken away. From the Secretary's replies just now, it seems that the police is actually aware of its wrongdoings after initial investigation. Hence, I must really call on the authorities — especially the police — to expeditiously investigate into the case, apologize to Radio Television Hong Kong and hold discussion with reporters' organizations, in order to prevent similar incidents from recurring. As that is not the Administration's policy, why can't the matter be resolved right away so that similar incidents will not happen again?*

SECRETARY FOR SECURITY (in Cantonese): President, Ms LAU has only stated her own conclusion in this matter. But according to our initial understanding, the police was not aware of the said reporter's identity when they took him away because he was not wearing his press card. Members should understand that in a crowded place with many people holding photographic equipment, including mobile phones and video cameras, and shooting pictures or

videos, the best way for the police to ascertain the identity of reporters is by displaying their press cards. On that occasion, the said reporter had not displayed his press card, and as I have said, it was very noisy at the time.

Regarding Ms LAU's question about whether communication can be further improved, the police have already indicated that it attached great importance to this incident and would follow up accordingly. The police attaches great importance to press freedom and the freedom of reporting. In this regard, just now I have also cited the relevant measures taken by the police to indicate the importance attached by the police to such incident, as well as its hope that the media and the police can carry out their respective duties even more smoothly without obstructing each other. After reviewing this incident, the police will, as usual, communicate with the media so that both sides can carry out their respective duties smoothly in a mutually facilitating manner in future.

MR TOMMY CHEUNG (in Cantonese): *President, just now, I was waiting downstairs for the lift to return to this Chamber, when the lift door opened, two female Members inside screamed when they saw me. This showed that our colleagues are frightened, and so they scream when the lift door open and they see someone standing right in front of them.*

After hearing the Secretary's speech, I cannot help thinking about the security issue of this Complex, which is a very special building. May I ask if we should seek help from our security officers or dial 999 when we witness criminal damages, or when we are being criminally intimidated or even assaulted? If I dial 999 and report that I have been assaulted on a certain floor of the Complex, will the police arrive at the scene as quickly as possible, as in the case of dealing with other 999 calls? Or, will the police ring up and inform the Secretariat's security division of the assault report and ask if police officers should be deployed to the Complex to render assistance? This is because the Complex is not freely accessible at any time. President, this is the supplementary question that I wish to put to the Secretary.

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Mr CHEUNG. First of all, all Hong Kong people are protected by the laws of Hong Kong, and have the due right to report to the police when their personal safety is being threatened or when they witness law-breaking behaviour. But if

it is not an emergent case, I am afraid that Members should not make 999 calls as the telephone numbers of various police stations have already been displayed in different places. I wish to highlight in particular that the police have launched an application listing out the telephone numbers of various police stations. I call on members of the public to report and seek help from the police by calling those numbers for non-emergent cases.

What will the police do if someone called the police from the Complex? The police are legally liable to follow up on each request for assistance ... They are bound by the law to do so. Yet, consideration should also be given to the independence of the Legislative Council in actual operation. According to our established practice, actions will surely be taken and police officers will be deployed to the Complex to understand the situation. And, there are also practical considerations. Before a police officer is deployed to the Complex, he must, first of all, inform the Legislative Council; and secondly, seek assistance from the Secretariat in order to locate the informant and the scene as he has never been to the Complex. Therefore, in actual operation, the police will liaise with the Secretariat or the security officers on duty before dealing with the reported case.

MR STEVEN HO (in Cantonese): *President, I want to follow up on the supplementary questions that Dr CHIANG Lai-wan and Mr Andrew LEUNG put to the Government earlier, as I am not satisfied with the replies. Please do not say to us that ... Please say no more that this is an internal affair of the Legislative Council ... Members and our staff should be protected by the Government, that is, police officers, when we leave the Complex. As we foresee that the Complex will very likely be stormed again this Friday, what kind of deployment has the Secretary made today?*

SECRETARY FOR SECURITY (in Cantonese): President, let me be more specific, as I have just mentioned, the entry and exit of Members or anyone to and from the Complex are protected by the law and should not be impeded. I have already said that the police are duty-bound to safeguard the personal safety of anyone in public places. There can be two options. If anyone considers that his personal safety is being threatened, he can report to the police at once.

However, with regard to deployment ... The supplementary question asked about the deployment on Friday, which is still being considered. It is hoped that certain security measures can be put in place to ensure that the protest actions can proceed in an orderly and peaceful manner on Friday. Of course, as suggested by Members, the measures to be put in place will protect the safety of people working in the Complex. When discussing the security measures, the Legislative Council and the police will undoubtedly take into consideration the safety of these people and make the corresponding arrangements.

MISS CHAN YUEN-HAN (in Cantonese): *President, I felt very sorry over the past two weeks. After the Legislative Council was being stormed the first time, colleagues of the trade union had come to express their concern for the security officers. However, the storming recurred in the following week. Today, I think the security officers should feel indignant and they really hope that this Council and help and protect them. After all, they come to this Complex for work and do not expect to be assaulted. Honestly speaking, this is unacceptable to anyone from any strata of society. This is the point that I want to highlight.*

Secondly, I wish to say that ...

PRESIDENT (in Cantonese): Miss CHAN, please raise your supplementary question.

MISS CHAN YUEN-HAN (in Cantonese): *President, this is the same supplementary question. On the other hand, I have recently met with some police officers, and they are very frustrated ...*

PRESIDENT (in Cantonese): Miss CHAN, please stop expressing views and raise your supplementary question.

MISS CHAN YUEN-HAN (in Cantonese): *President, I am going to raise my supplementary question. I think that the police have exercised great restraint outside the camera. Of course, many colleagues may not agree with my observation, and I also think that investigation should be conducted on certain*

allegations of, for example, the assault of reporters and Members' assistants. The last thing that I wish to see is people confusing right and wrong, as this runs contrary to one of my important duties as an elected Member.

President, my supplementary question is: May I ask the Secretary about the deployment of police officers in the light of the situation on that day? The Secretary has said time and again that the incident took place outside the Complex, but I want to make one thing clear. President, a Member went outside and said, "We are staging a peaceful demonstration." At that time, a police officer asked ...

PRESIDENT (in Cantonese): Miss CHAN, please stop expressing views and raise your supplementary question. You may then sit down and let the Secretary reply.

MISS CHAN YUEN-HAN (in Cantonese): *My supplementary question is coming. The current question is ... Let me continue, okay? What is the current question? The police officer said to that Member, "Please go home and watch the television tonight to see if this is a peaceful demonstration". President, frankly, I feel very shameful and that is why I asked if the Hong Kong Police Force can do something. If we are totally unaware of the chaotic situation outside, how are you going to inform us of the violent acts and the situation outside ...*

PRESIDENT (in Cantonese): Miss CHAN, you are expressing views again. If you continue to express views, I will ask other Members to raise their questions.

MISS CHAN YUEN-HAN (in Cantonese): *President, I am not expressing views. I am asking the Secretary ...*

PRESIDENT (in Cantonese): Please raise your supplementary question at once and then sit down for the Secretary to reply.

MISS CHAN YUEN-HAN (in Cantonese): *Secretary, can you tell me how you are going to inform Members in this Complex about what is happening outside, so that they will not think that the demonstration is peaceful?*

SECRETARY FOR SECURITY (in Cantonese): President, firstly, the scenes shown on television are perfectly clear, and there is nothing I can do if someone turns a blind eye. From the television news reports, we can see that some people used some hard stuff to pry open the doors of the Complex; they used mills barriers to smash at the stone wall of an emergency exit; they pushed over mills barriers and used them to charge their way into the Complex. Also, a protester who fell down kicked the police officer who lent him a helping hand down to the ground. During the scuffle, reporters and protesters were seen fallen to the ground. As mills barriers were pushed over and seized, a protester had his feet trapped between mills barriers and was hurt after he failed to get them out. This scene can be seen on television. It would be even more dangerous if the feet of a person standing at the front were trapped between mills barriers but people at the back continued to press forward. Luckily, this did not happen on that night, but there are precedents in overseas countries which may lead to the recurrence of the Lan Kwai Fong incident.

These violent acts have been clearly captured by the cameras. If someone still insisted that it was a peaceful demonstration, I would wonder why he and I did not see the same footage, or why we have seen such different things. I think the police have already exercised great restraint to prevent injuries by all means and has handled the situation with great caution.

As Members have asked, how can we let members of the public know what has actually happened? Public officers, including the Chief Executive, the Chief Secretary for Administration and the Secretary for Security have told the media time and again that this was a violent storming of the Legislative Council. Not only do we condemn such violent acts, we also think that they are not necessary and permissible. Members' discussion here may, to a certain extent, draw up some objective conclusions and enable the public to know that it was a violent storming. As to how the community at large will look at the incident, I will leave it to them to decide.

MR WONG TING-KWONG (in Cantonese): *President, the guidelines to storm the police and the floor plans of the Legislative Council have gone viral on the Internet these days, I have no idea on what basis did Mr Alan LEONG claim on television yesterday that such act is done by LEUNG Chun-ying's aides. May I ask if the police is capable of tracing the person who has uploaded the relevant video clip to aid and abet an offence and bringing him to justice?*

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Mr WONG. Firstly, the police is definitely capable of dealing with such technology crimes. The police has already taken the initiative to investigate into the offence relating to the dissemination of information on the Internet. The experience and capability of the Technology Crime Division (TCD) in dealing with the dissemination of information on the Internet have attained world recognition. As a matter of fact, the Interpol's Asia-South Pacific Working Party on Information Technology Crime has been chaired by Hong Kong's TCD for more than 10 years, and Hong Kong's representative has also assumed the role as Vice-Chairman of the newly-formed European Working Party on Information Technology Crime. What is more, the TCD has conducted training and investigations of the technology crimes, and its forensics capability in respect of technology crimes has attained the recognition of the Interpol. Thus, the police are absolutely capable of handling these situations. Investigations have been conducted by the TCD and prosecutions have been instituted, for example, the person who sabotaged the website of the Hong Kong Exchanges and Clearing Limited (HKEx) had been arrested by the police, brought to justice and fined by the Court. Despite the TCD's capability, technology crimes are on the rise. I have proposed to the Legislative Council Panel on Security to further enhance the capability of the TCD by upgrading it to the Cyber Security and Technology Crime Bureau. The purpose is precisely to ensure that Hong Kong, especially the police, is capable of dealing with the ever-changing and deteriorating technology crimes. Judging from its previous performance and world recognition attained, I have full confidence in the capability and determination of the TCD.

DR HELENA WONG (in Cantonese): *The question raised by Dr Fernando CHEUNG is related to the handling of some arrested persons on police vehicles. A few arrested persons complained that they were assaulted by police officers on police vehicles. Although the Secretary stated that since investigation has yet to*

be conducted, it is hard to say if the case is substantiated, we are pretty worried that similar complaints may arise again this coming Friday. Therefore, will the Secretary inform this Council if he has considered giving the following three instructions: Firstly, cameras should be installed on police vehicles; secondly, police officers should not close the window curtains when people under arrest are being transported on police vehicles, and thirdly, initiative should be taken to ask the Complaints Against Police Office (CAPO) and the Independent Police Complaints Council (IPCC) to send their staff to the scene on Friday to gain a full picture of the situation, with a view to minimizing complaints against police officers?

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Dr WONG. Since Dr WONG is a member of the IPCC, she is certainly well-versed with the functions and capabilities of the CAPO and IPCC in independent monitoring. Concerning the allegations made by Dr WONG just now, I think there should be fair and just investigation, which has yet to commence, and making comments in the public air would not in any way facilitate the investigation. If a person considers that a police officer has taken improper action, he should lodge a complaint as it would be best for the CAPO and the IPCC to take up the investigation. Regarding the three points raised by Dr WONG, let me first speak on the last point. If the IPCC wants to observe any police operation, it may raise such intention. The CAPO, with which the IPCC has all along liaised, will certainly consider and discuss such request. From my experience, the police absolutely welcome IPCC members to have a better understanding about the problems faced by front-line police officers. Thus, this kind of observation does have positive effects. And yet, we also have to consider if there is a suitable place at the scene for IPCC members to safely observe the entire process without creating any implication to the issue at hand. I will leave these questions to the IPCC and the CAPO.

As for the other two points raised by Dr WONG, firstly, we have not confirmed if the case mentioned by Dr WONG is substantiated. The case will be referred to the CAPO and we have no idea of what has happened before the completion of the investigation. Undoubtedly, in drafting the police's operational guidelines, we will consider whether such guidelines can facilitate the police's general operations and specifically facilitate police officers' discharge of duties. The details and scope of the operational guidelines must take into consideration the actual coverage of an operation, its complexity and the actual

operation, and we will leave these to the Hong Kong Police Force for consideration.

(Dr Helena WONG stood up)

PRESIDENT (in Cantonese): Dr WONG, there are still 20 Members waiting for their turns to ask supplementary questions. As I have just said, if Members are dissatisfied with the Secretary's reply, they may follow up through other channels.

DR LAM TAI-FAI (in Cantonese): *President, apparently, the incident is attributed to the serious conflicts between some of the protesters and the Government. I think the excessive deployment of police officers or the use of excessive violence by the protesters is not the best way to resolve these deep-rooted conflicts. This would only further deepen the conflicts of both parties, making it even more difficult to resolve the problems.*

President, my question to the Government is: After the incident, the Government (including Mrs Carrie LAM and the Chief Executive) made high-profile remarks that the people who stirred up trouble and stormed the Complex are frequent violent protesters from aggressive groups. They are frequent trouble-makers rather than residents of the North East New Territories New Development Areas. As the Government has identified who they are, I think the problem should be tackled easily, and we need not worry about this Friday.

At this juncture of World Cup Finals, I believe the Secretary and the Director will, for the sake of soccer fans ...

PRESIDENT (in Cantonese): Dr LAM, please expeditiously raise your supplementary question.

DR LAM TAI-FAI (in Cantonese): *... My supplementary question is whether they have made reference to the overseas practices in dealing with violent soccer fans. For example, in foreign countries, violent soccer fans are often prohibited*

from entering the stadiums, and even if they are allowed to enter, they would be required to register or directed to a designated area ...

PRESIDENT (in Cantonese): Dr LAM, please immediately raise your supplementary question.

DR LAM TAI-FAI (in Cantonese): ... *My supplementary question is: Given that the Government has identified the trouble-makers, who are expected to come again this Friday, will it prohibit them from entering the precincts of the Legislative Council, or require them to register even if they are allowed to enter the precincts? Or, will the Government limit the number of protestors, allocate chips to them or arrange them to stay in a designated area, such as at the back of the crowd, so as to facilitate the handling of the storming action?*

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Dr LAM. The deployment of the police only targets at the actions to be taken by protestors, but not the protestors themselves. In order to target at their actions, the police will carry out different risk assessments, for example, under what circumstances will protestors react, what subject matters are involved, and what is the chance for protestors to take actions. Such kinds of risk assessment will be conducted. Thus, the police will make deployments to target at such actions and corresponding measures will also be introduced. As to whether Dr LAM's suggestions would be adopted, the police will consider in the light of the risk assessment result, the actual situation, the environment of the scene and previous experiences. Let me repeat, the police are very experienced and professional in dealing with such incidents, and I have full confidence in them.

MS CYD HO (in Cantonese): *President, in fact, the conflicts were caused by the forcible resumption of land. When the Government has exercised institutional violence, no one can sanction it or enforce the law. President, the authorities have all along refused to meet with the residents or listen to their complaints, and have even turned a blind eye to them. If the authorities are sincere in preventing another stormy protest, apart from deploying police officers, may I request the Secretary to relay a message to the Secretary for Development, asking him to meet with the residents and sincerely listen to their complaints rather than*

focusing on the deployment of more police officers? Meeting with the residents is a peaceful, rational and non-violent step forward in resolving the conflicts. Is the Secretary willing to make this little step? How come the Secretary refuses to do so and would rather enhance the police force?

SECRETARY FOR SECURITY (in Cantonese): President, although I do not oversee development affairs, I am aware that the development plans of the North East New Territories have been considered and consulted for an extensive period of time, and the authorities concerned have communicated with different people on many occasions. What is more, the door of communication is always open. Regarding Members' views, I believe it is not the first time they have been expressed such views, but given that they are requests from Members, I will certainly relay them to the Development Bureau.

MR CHARLES PETER MOK (in Cantonese): *President, a number of Members have expressed concern over the dissemination of information on the Internet about storming the Legislative Council, and both the Secretary and Deputy Secretary have indicated that the case would be referred to the TCD of the Commercial Crime Bureau for follow up, which is all the more reasonable. But will the TCD be too preoccupied with this case such that it does not have time to look into the attacks of the public opinion poll website of the University of Hong Kong (HKU) or the .hk system? According to the HKU, its website has received 10 billion inquiries within 20 hours. Such "distributed denial of service" (DDoS) attack is one at the state level and has completely paralysed ...*

PRESIDENT (in Cantonese): Mr MOK, how does your point relate to these urgent questions?

MR CHARLES PETER MOK (in Cantonese): *Because I want to know ... I am going to raise my supplementary question.*

PRESIDENT (in Cantonese): Please raise your supplementary question.

MR CHARLES PETER MOK (in Cantonese): *Here comes my supplementary question. Given that the Apple Daily was subject to similar attack today, is this attributed to the fact that the police do not have spare resources to deal with other technology crimes? How do the Government and the police prioritize the handling of such issues?*

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Mr MOK. The police is absolutely capable of dealing with such technology crimes and I can cite some successful examples. In 2011, the HKExnews website was subject to a criminal act and its operations had been suspended subsequent to DDoS attacks. The police subsequently arrested a Hong Kong man, who was charged with one count of obtaining access to a computer with dishonest intent and was sentenced to nine months' imprisonment. Again, in 2012, 16 financial institutions were subject to similar DDoS attacks, causing an effect on the trading platforms and the general website information. As the case had been reported to the police, the TCD arrested a person with the help of an overseas enforcement agency. In the end, a total of six people had been arrested. These reflected that the TCD does have the manpower and capability to deal with the state-of-the-art technology crimes.

Yet, I must stress again that technology crimes are ever-changing and the number has increased by 70% when compared with last year, which is pretty alarming. I have briefed the Legislative Council Panel on Security on this matter, and have ensured Members that the police are capable of coping with the relevant changes and increasing threats, especially in respect of network security. The Government agreed that by upgrading the TCD of the Police Force to the Cyber Security and Technology Crime Bureau, the cyber attacks highlighted by Mr MOK could be dealt with. What can the police do then? People who have been subject to cyber attacks should report to the police, which will then take actions to, for example, investigate if there is any contravention of the law. If people who have been attacked did not report to the police, it is impossible for the police to help them and bring the attackers to justice. Therefore, again, I encourage people who have been subject to cyber attacks to report to the police.

PRESIDENT (in Cantonese): Since both Mr MA Fung-kwok and Mr James TIEN are not present at the meeting, Mr YIU Si-wing, please raise your supplementary question.

MR YIU SI-WING (in Cantonese): *President, during the Finance Committee meeting held last Friday, a huge group of protesters stormed the Legislative Council, paying no heed to the possible consequences and many people were thus injured as a result. It is expected that on the coming Friday, protesters will recklessly storm the Legislative Council again, disregarding the personal safety of other people and their own. May I ask the authorities if they will give up the use of reasonable force owing to the pressure of certain Members or the media even when there is a risk that security officers or police officers may get hurt?*

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Mr YIU.

The police have all along enforced the law or dealt with matters in a professional and politically-neutral manner without submitting to the pressure from any person or the media. When taking actions or enforcing the laws, the police will stick to one principle, and that is, acting in accordance with the law. If anyone has contravened the laws of Hong Kong, and the offence is supported by evidence, the police will decisively enforce the law. And, regardless of whether a person is arrested at the scene or in the aftermath, the police will abide by the laws of Hong Kong and will not submit to the words or pressure of anyone in enforcing the law.

However, as I have said, I must stress that no one has ever exerted direct influence on the police's law-enforcement actions. Therefore, despite the heated discussions in society, the police will stick to the principle of acting in accordance with the law in discharging duties.

MR CHUNG KWOK-PAN (in Cantonese): *President, just now, the Secretary said that the video recordings taken by the media and by the Legislative Council have clearly captured the faces of the people who stormed this Council. May I ask if the police or the Security Bureau will take the initiative to investigate those who have been clearly identified, or even arrest them? Or, will actions be taken only after someone has reported to the police?*

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr CHUNG for his question.

An investigation is now underway and has yet to be completed, and the police are still in the process of evidence collection. The evidence highlighted by Mr CHUNG will certainly be considered by the police. If anyone can provide additional information for the police's investigation, he might as well do so as this is the due obligation of members of the public to help the police to fight crimes. We therefore welcome any clues, details or even evidence that would enable the police to have a quick grasp of the evidences during the investigation. Therefore, the police welcome information in this regard.

MR KWOK WAI-KEUNG (in Cantonese): *President, just now all Members from the pan-democratic camp pointed their fingers at the police. Nonetheless, they are biased and the allegations made are unfair and unreasonable, which has in actuality encouraged the storming acts. Apart from the police, the reporter whom we have just mentioned was also working in a dangerous environment. During the storming process, the police mistook a reporter to be a protester and removed him. May I ask the Secretary for Security if reasonable arrangements have been made by the police for the coming operation on Friday, such that all reporters can do their job in a safe environment and will not be mistaken by the police?*

SECRETARY FOR SECURITY (in Cantonese): *President, this is definitely a point of consideration for the Secretariat and the police in respect of Friday's security proposal, and let me repeat certain points that I have made in the earlier replies. There is one difference between the arrangement made for this Friday and last Friday. Last Friday, the police acted on request and the arrangement was therefore reactive. We nonetheless hope that the security arrangements for this Friday could be made after negotiation of the two parties, during which the police will consider all the factors and consult the Secretariat of the necessary actions to be taken. A preventive approach will be adopted for this coming Friday. Given that we have resorted to a "protective" approach after being attacked last Friday, we think it would be best to adopt a preventive approach. I trust that the Secretariat and the police will have sufficient exchanges and understanding in this regard, and will come up with the best plan for this Friday.*

MR CHAN KAM-LAM (in Cantonese): *President, the storming incident that happened last Friday was an extraordinarily serious violent incident. But*

instead of condemning such violent acts, Radio Television Hong Kong has invited Members and Members' assistants who have allegedly stirred up the trouble to its programmes on the following day. They have made unreasonable accusations against the Chairman of the Finance Committee and ruthlessly attacked police officers in order to beautify their protests and violent acts, which have indeed made such violent acts even more ruthless. The trouble-makers and organizers of the protests have clearly indicated that they would resort to the same tactic this Friday and vowed that more violent acts would be taken to storm the Legislative Council ...

MR CHAN CHI-CHUEN (in Cantonese): *Mr CHAN Kam-lam has been expressing views but not raising question.*

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, please raise your supplementary question.

MR CHAN KAM-LAM (in Cantonese): *President, I am going to raise my question. The current situation is like "a windy tower presaging rising mountain tempests". Will the Government inform this Council if it has investigated or found out whether the organizers of such violent acts are legal bodies, and who have masterminded the acts?*

SECRETARY FOR SECURITY (in Cantonese): First of all, we consider it inappropriate to comment on the investigation or details of individual cases. But it so happened that the police is negotiating with the Secretariat on the security arrangements for this coming Friday, and they have also touched on the possible scenarios just mentioned by Members as well as the possible risks, which involve different actions and approaches. I reiterate that the police will evaluate the results of the risk studies, and their security operations and deployments should be able to deal with the various risks involved.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, the incident happened on 13 June reminds me of the saying: "A thief crying thief". Some people claimed that the incident was caused by the Government or NG Leung-sing, yet*

they stormed the Legislative Council, and someone placed a vehicle sideways at the exit of the Legislative Council car park ...

PRESIDENT (in Cantonese): Mr LEUNG, please do not repeat what other Members have previously said and expeditiously raise your supplementary question.

MR LEUNG CHE-CHEUNG (in Cantonese): ... *to block it so that Members could not leave the Complex, and then they accused Mr LEUNG Chi-cheung of blocking the car park. My question is: If someone impedes Legislative Council Members' entry and exit, may I ask what measures the Security Bureau can take to ensure the safety of Members who, being unable to leave the Complex by car, are besieged when they leave the Complex by using the normal pedestrian walkway?*

SECRETARY FOR SECURITY (in Cantonese): I wish to stress again that section 19 of the Legislative Council (Powers and Privileges) Ordinance has provided for the offences relating to the "interference with members, officers", which states that any person who assaults, obstructs or molests any member going to, being within or going from the precincts of the Chamber, or endeavours to compel any member by force or menace to declare himself in favour of or against any motion or matter pending before the Council or a committee; or assaults, interferes with, molests, resists or obstructs any officer of the Council while in the execution of his duty commits an offence under section 19 and is liable to imprisonment for 12 months or a fine of \$10,000. This provision has protected the rights of Legislative Council Members and officers to enter or leave the precincts of the Chamber.

I think the issue can be divided into two parts. I opine that the execution of security-related functions within the Legislative Council (that is, the Complex) is, generally speaking, a security matter of the Secretariat. However, if a person (including a security officer handling the case) or the Secretariat reports to the police after handling a case, the police will follow up on the matter. This is the first part.

The second part is, if we suspect that in a major event, someone might contravene the abovementioned section 19 by impeding Legislative Council Members' or officers' entry into and exit from the precincts of the Chamber, we will adopt a preventive approach that I have just mentioned in response to the supplementary questions raised by different Members. Regarding the security arrangements for this Friday, the Secretariat and the police have to consider the different risks involved and the possible scenarios before making the corresponding deployments. On this point, I will request the police to discuss with the Secretariat to see how the risks involved can be dealt with.

MR CHAN CHI-CHUEN (in Cantonese): *Today is Wednesday and the Finance Committee is going to have another meeting two days later. Earlier, when raising their questions, many Members have expressed their concern that the police might not have enough time to make further security deployment plan in just two days. Noting that so many Members have expressed their concerns, we should better advise the Government to withdraw the funding application for the North East New Territories project and submit another one after the police come up with a satisfactory security deployment plan. This is the best solution.*

PRESIDENT (in Cantonese): Please raise your supplementary question.

MR CHAN CHI-CHUEN (in Cantonese): *The Secretary just now said that four Members have reported to the police after they were stuck in the car park and were unable to leave. In fact, I did call the police as well. Secretary, you should not only count the help calls made by Members from the pro-establishment and royalist camp, but disregard those made by the democratic camp. My supplementary question is: Given that I was also stuck in the Legislative Council car park on Friday night as a car blocked the car that I intended to get on and all the gates were shut, meaning that even if someone drove that car away, I still could not get out. I tried to contact the Secretary General of the Legislative Council Kenneth CHEN to ask him about the arrangement ...*

PRESIDENT (in Cantonese): Please raise the supplementary question.

MR CHAN CHI-CHUEN (in Cantonese): ... *but there has been no reply from him so far. My supplementary question is very simple which only needs a "yes" or "no" answer. Have the police stopped or advised the Legislative Council not to open the car park gates on that night to impede Members' free entry and exit? Have the police subsequently advised the Secretariat when to re-open the car park gates?*

SECRETARY FOR SECURITY (in Cantonese): President, first of all, I think the entrances of the Complex should be a matter for the Secretariat or the Commission to decide.

According to Mr CHAN, different people have reported to the police. Let me reiterate again, as I have pointed out in response to the question raised by another Member, the police would not be affected by a person's background and would not bow to any pressure or remark in taking actions. Therefore, regardless of whether it was Mr CHAN or other Members who report to the police, the police will act by the law based on facts and evidences, and the investigation will not be undermined by any pressure, remarks or background, or even noises.

MR WONG KWOK-HING (in Cantonese): *President, first of all, I wish to express my deep condolences and gratitude to the security officers and police officers who were injured.*

President, I will raise my supplementary question now. President, there is a saying that "a thief in the family is difficult to guard" ...

MR CHAN CHI-CHUEN (in Cantonese): *President, a point of order. Please do a headcount.*

PRESIDENT (in Cantonese): Mr WONG, please hold on. Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): This Council has spent two hours on these few urgent question, but there are still a few names on the list of Members waiting to speak. I intend to end this part of urgent questions after all Members on the waiting list have put their questions.

Apart from giving response to urgent questions, the Secretary for Security still have two more oral questions to answer today. Based on humanitarian consideration, will Members please try to be concise. Mr WONG Kwok-hing, please continue to raise your supplementary question.

MR WONG KWOK-HING (in Cantonese): *President, I don't know why my remark on the family thief would trigger someone's guilty conscience. I would now continue with my interrupted question.*

PRESIDENT (in Cantonese): Please raise your supplementary question at once.

MR WONG KWOK-HING (in Cantonese): *President, just now I mentioned the saying: "A thief in the family is difficult to guard". I noticed that in the main reply made in response to Ms Starry LEE's question, the Secretary for Security said that "... according to section 89 of the Criminal Procedure Ordinance (Cap. 221), any person who aids, abets, counsels or procures the commission by another person of any offence shall be guilty of the like offence." Looking back at the violent storming of the Legislative Council last Friday, President, someone had, in the capacity as Members, booked the conference room for the assembly of protesters; someone had, in the capacity as Members' assistants, cleared the way for protesters, and someone had, in the capacity as Members or Members' assistants, blocked the vehicular access by a vehicle.*

In this connection, may I ask the Secretary which is more important: the ordinance that you mentioned in the main reply or the P&P Ordinance? Will you enforce law stringently in this regard?

SECRETARY FOR SECURITY (in Cantonese): President, thank you, Mr WONG. The laws of Hong Kong apply throughout the entire SAR, thus

anyone who breaches the law shall bear the legal criminal liability unless he is excluded from liability afforded by certain laws.

As the issue mentioned by Mr WONG relates to the personal discipline, integrity or ethics of Legislative Council officers, I do not intend to make any comment. However, as the police are still conducting an investigation which covers an extensive scope, I will not rule out any possibility on the scope of investigation. No matter what, the police will certainly consider the evidence and the overall situation in the course of investigation. If someone did breach the law, we will seek legal advice from the Judiciary on the entire investigation. With the endorsement of legal advice, the person who has breached the laws of Hong Kong should certainly bear legal liabilities.

MR LEUNG YIU-CHUNG (in Cantonese): *President, I wish to follow up on the reporters' right of reporting. As stated by the Secretary just now, last Friday and the Friday before last, the police acted on request and the relevant deployments were therefore not very satisfactory.*

As I was also present at the scene on that day, I did hear a reporter shouting very loudly though I was far away from him, but the police had turned a deaf ear to this. I would regard this as an unplanned operation, thus giving arise to the above scenario. As we can see, the press or the media often lodge complaints about the police obstructing their rights or freedom of reporting during unforeseen circumstances.

My question is: In case of an unforeseen incident when sedentary deployment does not apply, how can the police safeguard the reporters' reasonable rights of reporting?

SECRETARY FOR SECURITY (in Cantonese): President, the two parties are actually very experienced in dealing with unforeseen incidents. In fact, the police and the media do have harmonious working relationship for most of the time. I hope that Members would take the abovementioned case as an isolated incident, which the police would seriously follow up. As I have stressed in response to the questions raised by other Members earlier, the police have made great efforts to establish a harmonious working relationship with the media and facilitate their news coverage.

In the event of unforeseen incidents, criminal offences will easily be committed, and crime scenes are involved. The police are very experienced in dealing with crime scenes. They will first cordon off the area for the collection of evidence, so that the media can move freely without prejudice to the investigation and the collection of evidence. Press coverage has all along been smooth and the two parties have established a good foundation for co-operation.

With regard to large-scale demonstrations or assemblies, as I have mentioned in the earlier replies, many arrangements can be made. For example, press areas will be set up in activity areas to facilitate press coverage; the Media Liaison Teams will be deployed to enhance communication, and seminars will be organized for the two parties to gain some knowledge of the daily work of their front-line staff, thereby enhancing their mutual understanding. All these aim to improve the working relationship with the media.

MR WU CHI-WAI (in Cantonese): *President ...*

(Mr Albert CHAN stood up)

MR ALBERT CHAN (in Cantonese): *President, although it is lunch time now, I still hope you can summon Members, especially Mr WONG Kwok-hing, back to attend the meeting.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

MR WU CHI-WAI (in Cantonese): *President, what Dr Fernando CHEUNG's assistant experienced actually reflected that despite the Secretary's repeated claim that front-line police officers have done their best to exercise restraint, individual officers have failed to do so, and as a result, the arrested people have been assaulted. What is even more worrying is that people would tend to answer violence with violence.*

May I ask the Secretary if there is any deployment or plan to prevent the prevalence of such sentiment of answering violence with violence within the Police Force?

SECRETARY FOR SECURITY (in Cantonese): President, first of all, I must state that I do not agree with the allegation made against the police in the question, especially because this is a one-sided allegation without being investigated and is therefore unfair to both parties. People who are aggrieved may resort to the redress mechanism and lodge complaints against police officers, because the law has confirmed the legal status of the IPCC to monitor complaints against police officers.

On the other hand, I want to stress again that complaints alleging assaults may serve a technical or strategic purpose. Among the complaints alleging assaults that have been examined and approved by the IPCC in 2013, none was substantiated. Not even one of them. The police have attached great importance to these allegations, and will not recognize and permit the use of such offensive acts against any member of the public. Our position is all too clear.

To prevent police officers from breaching the law, a number of measures have been put in place by the CAPO or the senior management of the Police Force throughout the years. Firstly, the Force Committee on Complaints Prevention has been set up under the CAPO to specifically examine how to make members of the public understand the work of police officers when they perform their duties, so as to prevent complaints arising from misunderstanding of the procedures of police work, with a view to minimizing unnecessary complaints. Of course, should there be law-breaking behaviours, the CAPO will handle in a fair and just manner.

The senior management has also introduced a number of measures to enhance the integrity as well as the ethical and moral standard of police officers, which include the establishment of the Force Committee on Integrity Management chaired by the Deputy Commissioner. They aim to prevent police officers from breaching the established procedures when performing their duties, and to live up to the core values of the police in respect of integrity.

MR ALBERT CHAN (in Cantonese): *Can I request another headcount to summon Members back to the Chamber to listen to such ridiculous and repugnant reply of the Secretary?*

PRESIDENT (in Cantonese): Mr CHAN, you only need to request a headcount. Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): As the meeting has been interrupted a number of times to wait for Members to return to the Chamber, we have spent more than two hours 30 minutes on these four urgent questions, which has far exceeded the time generally required for handling four oral questions. I decide that the four urgent questions should end here, and Members who have pressed the button to indicate their wish to ask supplementary questions should follow up through other channels.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): We will now proceed to the six oral questions today. First question.

Occupy Central and Constitutional Development Proposals

1. **DR LAM TAI-FAI** (in Cantonese): *President, it has been reported that earlier on, some individuals and Members of this Council belonging to the pan-democratic camp met with senior officials of the United States of America and the United Kingdom on issues relating to constitutional development, but the Members concerned have declined the invitation of the Director of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (the Liaison Office) to discuss the related matters with him. The individuals concerned have indicated that they will take part in an action to organize over 10 000 people to block the roads in Central (Occupy Central) unless the constitutional development proposals put forward by the*

Government meet their demands. Separately, in reply to my question on whether letters of no objection would be issued for public assemblies or processions related to Occupy Central during his attendance at the Question and Answer Session of this Council earlier on, the Chief Executive said that the Government could not sit back and do nothing, and it would not underestimate the eventuality of such incident, and that he himself, the Security Bureau and the Hong Kong Police Force attached great importance to this issue and they were making due preparation on various fronts, including operational deployment. He also indicated that the Government would not issue letters of no objection in respect of assemblies, demonstrations and processions to any person who seeks to paralyse the financial centre. In any event, the Government would act in accordance with the law and the police would resolutely enforce the laws should there be any unlawful acts. Meanwhile, the Chief Executive "was given to understand that quite a number of financial institutions, industrial and trade organisations, as well as professional practices located in Central were making preparations for instituting civil proceedings. They would demand the persons concerned to stop occupying and paralysing Central by way of civil proceedings, and would seek court orders for the persons concerned to compensate for the economic losses so incurred once the situation of Central being paralysed occurred." In this connection, will the Government inform this Council:

- (1) whether it has identified any foreign forces meddling with Hong Kong affairs, including making indiscreet remarks on the direction of constitutional development, as well as advocating and supporting Occupy Central; if it has, of the details; if not, the reasons for that;*

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

- (2) whether it has looked into the reasons why individual pan-democrats (including former and incumbent Members of this Council) have had high-profile meetings with the Vice President of the USA, Consul General of the USA in Hong Kong and the British Consul in Hong Kong, and so on to discuss constitutional development while declining the invitation of the Director of the Liaison Office for discussion on such issues; if it has, of the details; if not, the reasons for that; and*
- (3) as the Chief Executive indicated that the Government could not sit*

back and do nothing about Occupy Central and was making due preparation on various fronts, whether the Government will assist the business and industry sector or other individuals who suffer losses as a result of Occupy Central in claiming compensation from its organizers through legal means; if it will, of the details; if not, the reasons for that?

MR ALBERT CHAN (in Cantonese): *Deputy President, more Members should listen to the Government's reply on such an important issue. I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, in consultation with relevant bureaux, our consolidated reply to the question raised by Dr LAM is as follows:

- (1) Since the establishment of the Hong Kong Special Administrative Region (SAR), the political structure of Hong Kong has been developing, in the light of the actual situation in the SAR and in a gradual and orderly manner, towards the ultimate aim of universal suffrage in accordance with the Basic Law and the relevant Interpretation and Decisions of the Standing Committee of the National People's Congress (NPCSC). Constitutional development is a matter for the SAR and it is entirely an internal affair of China. Foreign governments should respect this principle and should not interfere in any way; and the SAR Government would not be interfered by any foreign force. We also consider that political figures in Hong Kong should understand that the issue is highly sensitive.
- (2) The Administration should not and cannot be the one to answer the

second part of Dr LAM's question. Dr LAM may consider asking the relevant Members of this Council and relevant persons.

- (3) Organizers of Occupy Central have stated clearly that the aim of Occupy Central was to unlawfully paralyse Central to force the Central Government to accede to their requests on constitutional development. In the event that it is to take place, should there be any breach of public safety, the peace or public order, the Government shall decisively take corresponding measures. If any legal person or individual considers that a loss is suffered as a result of unlawful activities of others and wishes to make a claim for damages, such a claim could certainly be made against the relevant parties through legal avenues.

DR LAM TAI-FAI (in Cantonese): *Deputy President, after the reunification, the Central Government has granted us the rights of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". But there are comments that some foreign forces are constantly stirring up trouble and meddling with Hong Kong affairs, attempting to infringe the sovereignty of our country and challenge its credibility, thereby affecting the governance of Hong Kong. There are also comments that foreign forces and the opposition camp are working in collusion, inciting people to occupy Central, jeopardizing and disrupting peace and public order. Once Occupy Central is initiated, I believe Hong Kong may become unrest at any time, which would be worrying and distressful.*

Deputy President, my supplementary question is simple. For a responsible and promising Government or for a competent official, he must understand that fire prevention is more important than fire fighting. What specific policies, measures and proposals does the Government have to prevent and effectively stop the constant emergence and expansion of foreign forces, such as the United Kingdom and the United States, so as to ensure that the sovereignty of our country will not be infringed upon and that we can continue to enjoy economic prosperity and stability, peace and public order, and that people can live and work in peace and contentment? Deputy President, I very much hope that you can monitor whether the Secretary's reply to my supplementary question is positive and specific, because his main reply is so perfunctory that I am very disappointed and frightened.

DEPUTY PRESIDENT (in Cantonese): You have stated your supplementary question.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I have repeated time and again in my main reply that constitutional development is a matter for Hong Kong and it is entirely an internal affair of China. Foreign governments should not interfere in any way.

As I have noted, when the Ministry of Foreign Affairs in China and the SAR Government have noticed such situation, they would take appropriate follow-up actions at two levels. For example, early this month, the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the Hong Kong SAR issued a press release. As I have just mentioned, it emphasized that "constitutional development is an internal affair of Hong Kong and China resolutely opposes intervention or interference in any way". When the SAR Government, either at the level of the Chief Executive, Secretaries of Departments or Directors of Bureaux, has exchanges with foreign consulates in Hong Kong on a government to government basis, if we found that there is any intervention or interference with our internal affairs, we will solemnly and repeatedly reaffirm the position stated a while ago.

DR LAM TAI-FAI (in Cantonese): *Deputy President, obviously you have heard that he has not answered my supplementary question. My supplementary question is simple enough; I said that fire prevention is better than fire fighting. I ask the Secretary what specific measures, policies and proposals the Government has to prevent or stop the emergence or expansion of foreign forces to infringe the sovereignty of Hong Kong and our economic development, in order to protect the public ...*

DEPUTY PRESIDENT (in Cantonese): Dr LAM, the Secretary has already replied. If you are not satisfied, you may follow up through other channels.

DR LAM TAI-FAI (in Cantonese): *Has he mentioned the specific measures taken by the authorities?*

DEPUTY PRESIDENT (in Cantonese): Yes, he has.

DR LAM TAI-FAI (in Cantonese): *Of the 70 Members, 69 Members have not heard him mention the specific measures. Deputy President, have you really heard of the measures?*

DEPUTY PRESIDENT (in Cantonese): If you are not satisfied, you may follow up through other channels.

MR ALBERT CHAN (in Cantonese): *Well, Deputy President, Dr LAM Tai-fai just said that 69 Members of the 70 Members have not heard of the measures. May I ask other Members to come back and I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

MR CHRISTOPHER CHEUNG (in Cantonese): *Deputy President, earlier on, someone who claimed to represent the financial sector held a press conference to actively advocate Occupy Central, and he also invited some foreign consuls to the press conference, taking advantage of their position to influence others. Therefore, I strongly agree with Dr LAM Tai-fai that some people are born to revere everything foreign. They met with foreign officials, but declined to meet with officials of the office of the Central Authorities in Hong Kong, that is the Liaison Office, thinking that the foreigners are their boss, and with their backing, they can occupy Central and confront the Central Authorities ...*

DEPUTY PRESIDENT (in Cantonese): What is your supplementary question?

MR CHRISTOPHER CHEUNG (in Cantonese): *I am stating my question now. Following the storming of the Legislative Council last Friday, how did the police assess the possibility of Occupy Central by violent means? Will the police put in place special measures to deploy more police officers in major financial points, such as the Hong Kong Exchanges and Clearing Limited, the Monetary Authority, HSBC and Bank of China, so as to prevent some people from taking the opportunity to stir up trouble, thereby causing investors in Hong Kong and all Hong Kong people to pay a heavy price for Occupying Central by violent means?*

I would also like to ask the Government if there is a system similar to the legal aid system to help small and medium enterprises (SMEs) claiming damages for losses resulted from such kind of illegal action that would paralyse the financial centre?

DEPUTY PRESIDENT (in Cantonese): Mr CHEUNG, you have stated your supplementary question. Please sit down.

SECRETARY FOR SECURITY (in Cantonese): Deputy President, I thank Mr CHEUNG for his question.

First, initiators of Occupy Central have written different articles to give an account of their ideas of the Occupy Central movement. One of the initiators, Dr TAI, published an article on 15 April, expressing that Occupy Central was a mass movement and the initiators themselves could not guarantee that the movement would be absolutely peaceful. Later, there were press comments and editorials on this article. As stated in one editorial, "As there are numerous records indicating that storming actions will be taken after radical demonstrations, when practical actions are taken to Occupy Central in the future, we can hardly be convinced that the persons involved will be peaceful, rational and non-violent". Following the storming of the Legislative Council last Friday, it was stated in the editorial of two newspapers, "after this night, who dare guarantee that Occupy Central would be 'peaceful'?" There was also another comment, "Violent storming of the Legislative Council, Occupy Central would hardly be peaceful". The community is concerned about the chaos brought about by Occupy Central.

The Chief Executive has said that he, the Government, the Security Bureau and the police attach great importance to the risks and are on high alert. The police will make adequate deployment in light of the possible risks. In the course of deployment, we can actually make reference to some ideas adopted by the police in dealing with major incidents. This is also an international practice. First, the police will get hold of all intelligence, assess the situation, make full preparation and draw up different plans. These plans include the prevention of high risk incidents, the contingency plans to be adopted should such incidents really happen and the preparation for the worst case scenario. The police have proactively examined the problems that may lead to chaos in the course of Occupy Central and have made deployments accordingly. In addition to setting up a team to make full preparation, specific actions have also been taken in respect of training, equipment, manpower and execution technologies. Of course, violence assessment is also a focal point.

The performance of the police in tackling these problems in the past was well evident. I am highly confident that the Government can handle the chaotic situation that may arise.

MR ALBERT CHAN (in Cantonese): *Deputy President, Dr LAM Tai-fai has just mentioned that some Members have met with officials of the United States. Deputy President, I would like to declare that Martin LEE and I had met with RICE in the White House. Certainly, unlike LI Keqiang's meeting with the Queen in the Windsor Castle, there was no official ceremony. Regarding contacts with important political leaders of foreign countries, are the frequent visits to foreign countries by the leaders of the Central Government, the Secretaries of Department, Directors of Bureaux and officials of the Hong Kong Government fawning on foreign powers?*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please raise your supplementary question.

MR ALBERT CHAN (in Cantonese): *Deputy President, my supplementary question is about Occupy Central. Just now, the Secretary mentioned about grasping fully the intelligence, but the main reply of the Secretary for*

Constitutional and Mainland Affairs is extremely wrong, which proved that his intelligence is extremely wrong.

In reply to Dr LAM Tai-fai, he said that "organizers of Occupy Central have stated clearly that the aim of Occupy Central was to unlawfully paralyse Central to force the Central Government to accede to their requests on constitutional development". This is entirely wrong because the three organizers of Occupy Central have never said that they want to paralyse Central. This suggestion is made by "Hulk" from People Power; he should not turn what I said into the position of the three organizers of Occupy Central ...

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please directly state your supplementary question.

MR ALBERT CHAN (in Cantonese): *My supplementary question is: We are all worried about paralysing Central but very often, it is the improper acts of the police that have paralysed Central. The police suffer from schizophrenia and phobias. They take the lead to block the roads when they see public assembly. This situation has happened many times. The police have taken the lead to block the roads even before people gather together or before actions are taken. In particular, the police often block Garden Road which leads to the Office of the Chief Executive for no reason, causing traffic congestion in Central or even paralysing Central.*

Can the Government explain to us what measures are in place to prevent these "licensed hooligans" — the police have become "licensed hooligans" after Andy TSANG has taken office — from unreasonably blocking the roads and paralysing Central?

SECRETARY FOR SECURITY (in Cantonese): Deputy President, first of all, I totally disagree with Mr CHAN's description of our professional police officers. Over 7 000 marches and demonstrations had been held in each of the past few years, and such activities had been conducted smoothly, thanks to the police officers who performed their duties wholeheartedly and uncomplainingly. Therefore, I think the above description is very unfair and I must strongly indicate my disagreement.

Secondly, Mr CHAN said that Occupy Central is not intended to paralyse Hong Kong. My understanding of Occupy Central is based on the articles written by some initiators of Occupy Central. Mr CHAN can read an article written by Dr TAI, one of the Occupy Central initiators, published on 16 January last year, entitled "The Most Lethal Weapon of Civil Disobedience". It is stated in this article that to fight for genuine universal suffrage in Hong Kong, non-violent means of civil disobedience would be employed by rallying up to 10 000 protestors to occupy the main roads in Central illegally for a long period of time, in a bid to paralyse the political and economic hub of Hong Kong. This is the first point raised in Dr TAI's article. He also states in the article that such action must comply with a number of principles in order to be lethal. Due to time constraints, I will only talk about a few principles, including the third principle that the power of civil disobedience lies in its being illegal; the fourth principle is that the occupation must last for some time; and the fifth principle is that since the action of civil disobedience is illegal, the participants must expressly state in their written oaths that they will bear culpability. Thus, the ideas behind Occupy Central are stated in Dr TAI's article.

Moreover, Dr TAI has published another article on 15 April, stating that Occupy Central is a mass movement, and the initiators cannot guarantee that the movement will be absolutely peaceful. Hence, Occupy Central may cause chaos. According to my understanding of the article, Occupy Central involves high risk situation and we have to show grave concern. I have just explained that the police will grasp the whole situation and after assessing the risks involved, make relevant deployments, including preventive and responsive actions, as well as draw up contingency plans for the worst-case scenario. In this connection, the police are well prepared and I always have full confidence in their performance.

MR ALBERT CHAN (in Cantonese): *Deputy President, the Secretary has not answered my supplementary question because he has been sitting in an air-conditioned room for too long and he seldom goes out ...*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, what is your supplementary question?

MR ALBERT CHAN (in Cantonese): ... *and he has not taken part in the actions ...*

DEPUTY PRESIDENT (in Cantonese): Please point out the part that the Secretary has not answered.

MR ALBERT CHAN (in Cantonese): *I have participated in numerous marches, and the supplementary question I raised a while ago is that, in many cases, the police officers or the person-in-charge have made wrong judgments, or they suffer from schizophrenia or they are sick, and they have improperly blocked the roads ...*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, you have already pointed out the part that has not been answered.

MR ALBERT CHAN (in Cantonese): *In my supplementary question, I ask what measures the authorities ...*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please sit down.

MR ALBERT CHAN (in Cantonese): *Deputy President, my supplementary question just now is ...*

DEPUTY PRESIDENT (in Cantonese): I know what your question is, and so does the Secretary. Please sit down.

MR ALBERT CHAN (in Cantonese): *Deputy President, how do you know what my question is? I have not yet ...*

DEPUTY PRESIDENT (in Cantonese): Please sit down. The Secretary has not fully answered your supplementary question and you are not going to ask a new supplementary question now. Secretary, do you have anything to add?

MR ALBERT CHAN (in Cantonese): *Deputy President, which part of my supplementary question has the Secretary not answered?*

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

MR ALBERT CHAN (in Cantonese): *Please do not make wild guesses.*

SECRETARY FOR SECURITY (in Cantonese): My supplementary reply is that when handling large-scale demonstrations and marches, police officers have to make judgments based on the situation at the time; they have to consider public order and public safety and strike a balance in making deployments, so as to minimize the impacts on people's daily lives.

MR ALBERT CHAN (in Cantonese): *Deputy President, my question is on those who are mentally insane but he has not answered me.*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, please do not speak when I have not called on you.

MR CHAN KAM-LAM (in Cantonese): *Deputy President, Mr Albert CHAN has just described police officers who maintain law and order as "licensed hooligans" ...*

MR ALBERT CHAN (in Cantonese): *Deputy President, I request a headcount.*

MR CHAN KAM-LAM (in Cantonese): ... *This is a serious insult to police officers ...*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kam-lam, please sit down.

MR ALBERT CHAN (in Cantonese): *Deputy President, a quorum is not present. I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): Mr CHAN Kam-lam, do you still have a point of order?

MR CHAN KAM-LAM (in Cantonese): *Deputy President, Mr Albert CHAN has just described police officers who maintain law and social order as "licensed hooligans". This is outrageous and it is a serious insult to all police officers. The remark is extremely offensive. Deputy President, I ask you to rule and order Mr Albert CHAN to withdraw the remark.*

DEPUTY PRESIDENT (in Cantonese): This meeting is broadcast live and all Hong Kong people, including police officers in the disciplined service can hear what Mr Albert CHAN has just said. As he has not offended any Members or officials present, I cannot rule that he has violated the Rules of Procedure, but justice is in people's hearts.

MR ALBERT CHAN (in Cantonese): *Deputy President, how can a Member be so ignorant as to casually raise a point of order?*

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, I have not called on you to speak. If you speak casually again in this Chamber, I will rule that you have behaved in a disorderly manner, and if you make the same mistake again, I will ask you to leave the Chamber. Dr Elizabeth QUAT, please raise your supplementary question.

MR ALBERT CHAN (in Cantonese): *Deputy President, I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DR ELIZABETH QUAT (in Cantonese): *Deputy President, first of all, I am very sorry that Mr Albert CHAN has deliberately abused police officers in this Chamber, and I have to strongly reprimand him for that.*

Deputy President, the fact that the Legislative Council has been stormed twice has adequately proved that resistance acts in the form of occupation or siege cannot possibly be peaceful. The situation will easily get out of control, and result in serious violent conflicts. Mr Albert CHAN has just openly stated in this Chamber that he advocated paralysing Central, and I believe all those present can hear him. Members of the business sector, especially those working in Central, are very worried, and this may affect their stay in Hong Kong to do business.

Deputy President, do the authorities specifically understand the concerns of the business sector and the industry? Will the authorities provide some guidelines to the sector or examine with them how to make deployments to minimize their business risks?

DEPUTY PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Constitutional and Mainland Affairs, please reply.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, I thank Dr Elizabeth QUAT for her supplementary question. Let me try to divide my reply into a few parts.

Firstly, as the Secretary for Security has just mentioned, the Administration is gravely concerned that some members of the community have proposed to Occupy Central and we understand that many groups and people in our society are concerned about the impacts of this action. As mentioned by a number of Members and the Secretary for Security a moment ago, Occupy Central will upset social order, undermine our economic and business environment and weaken our competitiveness; moreover, multinational companies may withdraw their business from Hong Kong. If the major roads in Central are occupied and the traffic is paralysed, public safety and public order will be seriously impacted, and even emergency services for the public may be affected, thereby threatening people's lives and property. Just now, some Members have expressed concern about traffic and as pointed out by the Secretary for Security, road traffic on Hong Kong Island is very busy; if any major roads around Central are obstructed, the traffic nearby and the connected primary roads and other roads will be seriously affected.

Deputy President, at present, the east-west traffic movement in the Central business centre includes Connaught Road Central and Harcourt Road. According to past experience, if there are minor traffic accidents on the major roads or on roads nearby, the road network will be congested. If there is traffic congestion around Central, the other areas and major roads will be affected within a short time. In addition to Central, Sheung Wan, Wan Chai, Causeway Bay and Happy Valley will also suffer from serious traffic congestion; and other primary roads including Connaught Road, Gloucester Road, the Eastern Corridor, the Cross-Harbour Tunnel and the Western Harbour Crossing will also be seriously impacted. The affected area may extend to Kowloon.

On the economic front, based on information provided by the Financial Services and the Treasury Bureau, all along, the financial regulators, the Hong Kong Exchanges and Clearing Limited, the clearing house and individual financial institutions have formulated contingency plans to deal with various situations that may affect normal business operation, and to ensure that the relevant organizations can take appropriate contingency measures in the event of unexpected incidents, so as to minimize the impacts of these incidents on their core business operation.

Nevertheless, as Central is the central business district in Hong Kong, most of the major financial institutions, infrastructure and regulatory bodies are located in Central. Once there is a large-scale occupation of Central leading to road blockage, it would inevitably impact on our financial and related activities, as well as cause inconveniences to people using these services. If the situation continues and the Central Business District cannot resume normal operation for a long time, even if the relevant organizations have contingency plans, we believe the chain reactions caused by the occupation of Central and blockage of its major roads would have adverse impacts on the financial sector.

DR ELIZABETH QUAT (in Cantonese): *He has not answered my question. Will the authorities discuss with the business sector and formulate some guidelines, in particular, inform SMEs how to ensure that their business would not be adversely affected when Occupy Central really takes place.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): Deputy President, the police and the Government have been communicating closely with the chambers of commerce and people in the district who may be affected, and will continue to do so in the future. In particular, we also agree that there are quite a number of SMEs in Central, and they may bear the brunt and suffer the greatest economic losses.

Hence, we have been monitoring the development of events. As the Secretary for Security has pointed out just now, the police and the Administration would draw up various contingency plans and make relevant deployments in view of the development of events, hoping to ensure that Hong Kong people and SMEs will not be affected by these illegal acts.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 26 minutes on this question. Second question.

Handling of Complaints by Medical Council of Hong Kong

2. **MR PAUL TSE** (in Cantonese): *Deputy President, the Medical Council of Hong Kong (MCHK) is vested with statutory powers to conduct inquiries into complaints about the professional conduct of registered medical practitioners,*

and may take disciplinary actions against those practitioners found to be guilty of professional misconduct. It has been reported that MCHK receives about 500 complaints each year, but conducts disciplinary hearings on only 22 of such complaints on average. Some members of the public have criticized that the fact that MCHK is mainly composed of medical professionals will easily give rise to the situation of "doctors harbouring each other", such as imposing lenient penalties on those doctors guilty of professional misconduct. Moreover, the MCHK has taken a very long time in handling some of the cases, causing grievances among the victims of medical incidents and their families. For instance, concerning the death of a newborn son of a couple in 2005, it is not until recently (that is, nine years after the incident) that MCHK has adjudicated that the doctor concerned is guilty of professional misconduct. This case has aroused wide public concern about the composition, operations and complaint handling procedure of the MCHK. In this connection, will the Government inform this Council:

- (1) whether it has assessed if the current composition, criteria for appointment of its members and modus operandi of the MCHK are conducive to its handling of complaints in an objective, fair, credible and efficient manner; if it has assessed, of the methodology and outcome of the assessment, as well as the relevant follow-up actions taken; if not, the reasons for that, and whether it can immediately conduct such an assessment; as some members of the public consider that the penalties meted out by MCHK to doctors guilty of professional misconduct are often too lenient, thus lacking sufficient deterrent effect, of the follow-up actions the authorities will take;*
- (2) as it has been reported that the couple in the aforesaid case have spent more than \$1 million on legal fees and engaging medical specialists to prepare independent assessment reports, and so on, of the policies and measures put in place by the authorities to assist those victims of medical incidents and their families who have financial difficulties and lack medical expertise in seeking justice; and*
- (3) whether it will examine the establishment of a new independent redress mechanism (such as office of the ombudsman for medical services) dedicated to handling complaints about medical incidents?*

MR CHAN CHI-CHUEN (in Cantonese): *Deputy President, a point of order. Please do a headcount according to Rule 17(2) of the Rules of Procedure.*

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

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

- (1) The MCHK is an independent statutory body established under the Medical Registration Ordinance for handling matters relating to the registration and regulation of medical practitioners in Hong Kong, including the conduct of inquiries and disciplinary proceedings concerning the professional conduct of registered medical practitioners. The MCHK comprises 24 medical practitioners and four lay members. Among the medical practitioner members, seven are elected by registered medical practitioners, seven others are elected by the Hong Kong Medical Association, while the rest are nominated by the Director of Health, the University of Hong Kong, The Chinese University of Hong Kong, the Hospital Authority and the Hong Kong Academy of Medicine and appointed by the Chief Executive. The four lay members are also appointed by the Chief Executive.

The MCHK handles complaints received against registered medical practitioners, conducts investigations into allegations of professional misconduct and takes disciplinary actions in accordance with the procedures laid down in the Medical Registration Ordinance and the Medical Practitioners (Registration and Disciplinary Procedure) Regulation. If the MCHK finds that a medical practitioner is guilty of professional misconduct, it can impose punishment by issuing him disciplinary order or even revoke his professional registration.

Upon receipt of a complaint concerning the professional conduct of a registered medical practitioner in Hong Kong, the Preliminary

Investigation Committee (PIC) of the MCHK will conduct preliminary investigation into the case and make recommendation to the MCHK as to whether or not an inquiry should be conducted. The PIC comprises seven members, including a chairman and a deputy chairman elected from among members of the MCHK and a lay member of the MCHK.

In accordance with the Medical Registration Ordinance and the relevant established procedures, the MCHK processes all complaints according to any or all of the following three steps:

- (i) Initial consideration by the chairman and the deputy chairman in consultation with a lay member of the PIC to decide whether the complaint is groundless, frivolous or not pursuable, and therefore the MCHK cannot or should not proceed further with it or that it should be referred to the PIC for full consideration;
- (ii) Conduct of a PIC meeting to examine the complaint as well as to consider the explanation of the medical practitioner concerned, with a view to forming a decision as to whether there is a *prima-facie* case to refer the complaint to the MCHK for a formal inquiry; and
- (iii) Inquiry by a panel of the MCHK comprising at least five Council Members including a lay member to hear evidence from both the complainant and the defending registered medical practitioner.

The MCHK conducted 119 disciplinary inquiries in the five years from 2009 to 2013, of which only seven were found unsubstantiated. The punishment imposed on medical practitioners included warnings and reprimands. In 76 cases, the registration of the medical practitioners was revoked and the period of removal from the General Register ranged from one month to permanent removal. The MCHK's judgments with reasons are uploaded onto its website and the relevant sentences are also gazetted in accordance with the Medical Registration Ordinance.

In a bid to expedite the complaint-handling process and inquiry proceedings so as to cope with an increasing number of complaints, the MCHK suggested in June this year to increase the number of lay assessors and allow lay assessors to substitute lay members of the MCHK in forming the quorum in preliminary investigations and inquiries. The Administration is actively considering the proposals.

- (2) The Government attaches great importance to the quality of healthcare services and the safety of patients, and endeavours to establish an effective mechanism for handling medical incidents and complaints. In this regard, different institutions play different roles and perform different functions in the process of handling medical complaints or incidents. In addition to the MCHK and other statutory regulatory bodies for healthcare professions, which have established procedures for handling complaints against professional misconduct, the Hospital Authority has also put in place a mechanism to handle complaints lodged by patients, their families and the public. Upon receipt of complaints against private hospitals or reports of medical incidents, the Department of Health (DH) will conduct investigation and require the hospitals concerned to take appropriate rectifying measures, or refer the cases to relevant professional regulatory bodies for follow-up actions.

Outside the medical system, the Office of The Ombudsman is responsible for investigating complaints against public services including medical service, with a focus on the existence of any maladministration. Incidents involving death are referred to the Coroner's Court for inquests. Patients or their families may also take legal action against the relevant medical institutions or personnel through civil proceedings. The Judiciary will consider whether the plaintiff suffers any loss and award damages accordingly.

Complainants who wish to seek legal advice may make use of the free legal advice services provided by the Legal Advice Centres in District Offices and the two legal professional bodies. The Legal Aid Department meanwhile provides legal representation for eligible applicants in civil or criminal proceedings in the Courts of Hong Kong.

- (3) Against the backdrop of a growing and ageing population which poses increasing demand for healthcare services, the Government has set up a high-level steering committee to conduct a strategic review on healthcare manpower planning and professional development in Hong Kong. Chaired by the Secretary for Food and Health, the steering committee will assess the manpower needs of the healthcare professions which are subject to statutory regulation and put forward recommendations regarding their professional development. The scope of the strategic review covers the regulatory framework for the healthcare professions, including the functions and composition of the regulatory bodies concerned. The Administration will follow up on the recommendations of the steering committee as appropriate upon completion of the review.

MR PAUL TSE (in Cantonese): *Deputy President, it is only until now that the Secretary told us that the MCHK would put forward proposals and carry out reviews in June. Yet, in as early as 2001, the MCHK had already conducted an extensive study and compiled a reform report, recommending the setting up of an independent Disciplinary Committee, to be chaired by an incumbent or retired judge, increasing the number of PIC's lay members from one to three, and increasing the penalties. Nonetheless, the abovementioned proposals have yet to be put in place after all these years.*

Looking at the proportion, certain action must be taken as the medical sector enjoys an absolute advantage in respect of the number of members, disregarding their medical expertise. Looking at Hong Kong's ...

DEPUTY PRESIDENT (in Cantonese): Mr TSE, please raise your supplementary question.

MR PAUL TSE (in Cantonese): *Deputy President, I must first give some background information before putting my supplementary question.*

Of the 28 members of the MCHK, 24 are members of the trade. In any inquiries, five out of six members are from the trade at the preliminary stage, and then four out of five are trade members at the hearing stage when actual

investigation is being conducted. Thus, at any one stage, members of trade enjoy an absolute advantage in respect of common or professional knowledge and the number of members. The case is completely different in the United Kingdom. Of the 24 members, 13 are not from the trade. For hearings, some 260 people will take turns to be the members of the Hearing Committee, in which 60 are trade members and 40 are lay members. The proportion is more rational in the United Kingdom than in Hong Kong. Under such circumstances, the Secretary still insisted that studies have to be carried out and we have to wait. Does this mean that the Secretary, being a trade member, has completely neglected the needs of members of the public and favoured only the medical profession?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, the overseas example that Mr TSE referred to is mainly related to the practice in the United Kingdom. At a meeting held by the steering committee on manpower review, we have also considered and made reference to overseas examples. Although no formal proposals have been put forward, we did refer to certain examples and the composition of different regulatory frameworks of registered medical practitioners does vary with different countries. Thus, we cannot look only at the case of the United Kingdom because other countries many have different composition.

The issue has aroused great controversy in the trade. But since the recommendations made by the MCHK in June are mainly concerned with an increase in the number of assessors, they may not have direct effect on the institutional framework. I think they should be less controversial, and could meet our requirements to a certain extent, that is, allaying the major concerns highlighted in the main question. For example, can we enhance the efficiency of the disciplinary hearings of the MCHK? Efficiency can definitely be enhanced by increasing the number of members, adding that the number of lay assessors will also be increased. Although they are not members of the MCHK and will not affect MCHK's policies, the involvement of more lay members in the disciplinary hearings and preliminary investigation will, in my opinion, address people's concern over the transparency of the investigation to a certain extent.

DR LEUNG KA-LAU (in Cantonese): *Deputy President, in the legal sector, lawyers have a motto of "Justice must not only be done, but must be seen to be*

done". Is the problem with the MCHK lies in its unfairness or its failure for fairness to be seen?

Referring to the Secretary's main reply, as a matter of fact, upon receipt of a complaint, lay members are involved in every stage from the PIC and the hearings. So far, we have not received any complaint from lay members about being outnumbered. What is more, they saw eye to eye with trade members most of the time. I wish to highlight a case that happened last year. Although a then active medical practitioner was charged with indecent assault and was found not guilty by the Court, the MCHK has disqualified him for life in consideration of his offence. It seems that the MCHK can be rather stringent. What is the problem with the MCHK? I must point it out. From the numerous complaints that I have received, one is concerned with a medical practitioner ...

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, please raise your supplementary question.

DR LEUNG KA-LAU (in Cantonese): *Deputy President, I do not have much more to say. I must explain the complaint concerned before putting my supplementary question to the Secretary. What is the complaint about? It is again about indecent assault. The complainant lodged a complaint in January, but it was only after a lapse of four months that the MCHK asked the complainant to report to the police. It seems that the efficiency is too low. It is not the PIC that is inefficient, but the Secretariat of the MCHK.*

I have also received numerous complaints about the long waiting time after the complainants lodged their complaints. They have not been informed of the progress or any information after a long wait of six months, one year or even two years. From this, we can see that the Secretariat of MCHK has very poor efficiency and low transparency. My supplementary question for the Secretary is: It does no help merely to increase the number of lay members as the crux of the issue is whether the Secretariat can have additional manpower to, firstly, enhance its efficiency, so as to promptly advise the complainants to report to the police if criminal offence is involved; and secondly, increase its transparency like the Court, such that the complainants will be informed of the details, the schedules and progress of their cases, for example, the details of meetings to be held or documents to be issued. And, even if the PIC decided that no inquiries

would be conducted for certain cases, a detailed explanation should be given to the complainants concerned. Will the Secretary please answer this question.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, given that the services of MCHK's Secretariat are now provided by DH staff, the Food and Health Bureau will review the operation of the MCHK with the DH from time to time. We will certainly provide the necessary resources when such a need arises.

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

DR LEUNG KA-LAU (in Cantonese): *With regard to transparency, will the MCHK inform the complainants of the progress, details and schedules of their complaints, and provide a detailed explanation of why no further inquiries would be conducted by the PIC?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): This falls within the scope of the review. As I have just said, the Food and Health Bureau will review the efficiency of MCHK's Secretariat with the DH from time to time.

MR ABRAHAM SHEK (in Cantonese): *Deputy President, in the main reply, the Secretary mentioned that the MCHK is considering the proposal to invite assessors. Given that the proposal is being considered, may I ask the Secretary if there is any timetable? How many additional assessors will be required enable the MCHK to perform its function?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, according to the preliminary proposal submitted by the MCHK to the Food and Health Bureau, there will be 10 more assessors. It is right that I did say the proposal is being considered, but if you ask me to give a preliminary response, we think the proposal is worth following up. We have therefore adopted a more proactive approach. Once a conclusion is made, we will expeditiously amend

the relevant laws as the abovementioned recommendations made by the MCHK require legislative amendments.

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

MR ABRAHAM SHEK (in Cantonese): *Deputy President, I wish to follow up. If there is a need to enact legislation, we will have to wait many more years and the issues will be further delayed.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Mr SHEK, you can rest assured in this regard. Just now, I was actually referring to some other proposals. As the proposals that I have mentioned earlier involved a change in the composition of the MCHK, they may arouse great controversy. The present proposal put forward by the MCHK, on the other hand, does not aim to increase the number of lay members, but to increase the quota of lay assessors. Despite the need to make legislative amendments, it is not controversial and we are therefore more confident to have it put in place as early as possible.

DR ELIZABETH QUAT (in Cantonese): *Apart from the lengthy process involved in handling complaints as highlighted by Members earlier, the situation of "doctors harbouring each other" is also of particular concern to members of the public. Many people probably think that the MCHK has adopted a delaying tactic and the penalties meted out to medical practitioners for professional misconduct are too lenient. May I ask if a mere increase in the number of lay members can address public concern and eradicate the situation of "doctors harbouring each other"? In the light of the Government's review and the MCHK's future development, how will the Bureau further improve the MCHK?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Deputy President, if a complaint is substantiated, I certainly understand that people will have divergent views about the penalties meted out by the Disciplinary Committee of the MCHK. I nonetheless have to point out that the penalties meted out by the MCHK can be very heavy. The first kind of penalty is reprimand. Local

registered medical practitioners, especially private practitioners, usually attach great importance to the trust of patients, the community and members of the public in them. It is therefore a serious penalty for the MCHK to order that a reprimand be published in the Gazette. As I have just pointed out, the MCHK has revoked the registration of medical practitioners for a certain period of time or even removed their names from the General Register in a number of cases. There are views that the length of time which the registration of medical practitioners are revoked is too short in some cases, while some are too long. Members should nonetheless understand that no matter how long the period is, the registration will not be restored automatically after the disqualification period, and medical practitioners have to apply to the MCHK for registration again. If the MCHK is satisfied with the applicant's professional standard, thinking that the remedial measures have been properly put in place and both his professional standard and conduct are satisfactory, his registration will be restored.

DEPUTY PRESIDENT (in Cantonese): We have spent more than 22 minutes on this question. Third question

MR CHAN CHI-CHUEN (in Cantonese): *A point of order. I request a headcount.*

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, THE PRESIDENT resumed the Chair)

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Third question.

Government's Deployment Against Occupy Central

3. **DR KWOK KA-KI** (in Cantonese): *President, in attending the Question and Answer Session of this Council last month, the Chief Executive stated that the Government would not underestimate the eventuality of "Occupy Central", and therefore he himself, the Security Bureau and the Hong Kong Police Force attached great importance to this issue. They were making due preparation on various fronts, including operational deployment. The Chief Executive also pointed out that as Occupy Central would paralyse Central, the Government would not issue letters of no objection in respect of assemblies, demonstrations and processions to any person who seeks to paralyse the financial centre. In addition, the initiators of Occupy Central will hold a ballot on the 22nd of this month inviting the public to choose a proposal for selecting the Chief Executive by universal suffrage in 2017, and Occupy Central will strive for the implementation of that proposal. Regarding the Government's deployment against Occupy Central, will the Government inform this Council:*

- (1) *whether it will consider incorporating the proposal chosen through the aforesaid ballot by Occupy Central into the document for the second-round consultation on constitutional development, so as to avoid the occurrence of Occupy Central; if it will not, of the policies and procedures based on which the authorities will decide whether to incorporate the proposals supported by the public into that consultation document;*
- (2) *whether there were cases in the past five years in which the police had already made decisions of refusal to issue letters of no objection before the organizers of assemblies or processions submitted their applications; if there were, of the number and details of such cases; whether the police have decided, in accordance with the aforesaid remarks made by the Chief Executive, not to issue letters of no objection to public assemblies or processions involving Occupy Central; if they have so decided, whether it is because of the fear that such activities may subsequently develop into Occupy Central, whether such a practice is different from the established procedures adopted by the police in the past and whether it will become a precedent; and*

- (3) *whether it will keep the personal information of the participants of Occupy Central for reference by government departments or other employers in future recruitment exercises; if it will, of the details, including the legal and policy bases for such a practice, and whether its purpose is to discourage the public from participating in Occupy Central?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in consultation with relevant bureaux, the consolidated reply to the questions raised by Dr KWOK is as follows:

- (1) The five-month consultation on the methods for selecting the Chief Executive in 2017 and for forming the Legislative Council in 2016 ended on 3 May 2014. The Administration is currently consolidating and analysing views received during the consultation period, as well as compiling the consultation report, with a view to assisting the Chief Executive to submit a report to the Standing Committee of the National People's Congress (NPCSC) to kick-start the "Five-step Process" of constitutional development. The Administration will faithfully reflect views received during the consultation period in the consultation report. As we have mentioned in the consultation document, the proposals should be, legally, strictly in accordance with the Basic Law and relevant Interpretation and Decisions of the NPCSC; politically, the proposals should stand a reasonable chance of gaining support of the community and securing passage by a two-thirds majority of Members in the Legislative Council; and operationally, the proposals should be practical and practicable. In the second stage consultation document to be published at the end of this year, the HKSAR Government will put forward specific proposals that are in accordance with the Basic Law and relevant Interpretation and Decisions of the NPCSC, and on such basis, further forge consensus in the community, and work together to successfully implement universal suffrage for the Chief Executive election in 2017 as scheduled in accordance with the law.
- (2) According to the Public Order Ordinance, any public meeting or procession the attendance of which exceeds the limit prescribed in

the Ordinance, that is, public meetings of more than 50 persons and public processions of more than 30 persons, shall give a notice to the Commissioner of Police (CP) not less than seven days prior to the intended event. In consideration of public order and public safety, CP may prohibit, object to or impose conditions on a notified public meeting or procession, and shall inform the organizers of his decision in writing. Any condition(s) imposed shall be explicitly stated in the "letter of no objection" to the organizers beforehand. A public meeting or procession may only be conducted if CP does not prohibit or object to it. Organizers may appeal to the statutory and independent Appeal Board on Public Meetings and Processions if they consider CP's decision unreasonable.

Under the statutory notification mechanism, the police shall, on the basis of the above principle, deliberate on each notification of public meeting or public procession received according to the law, and shall inform the organizers of the decision in writing. It is only upon receipt of a notification to hold a public order event shall the police consider the issue of the "letter of no objection" and the corresponding conditions.

During the Legislative Council's Question and Answer Session on 22 May, the Chief Executive expounded the Government's principle for handling the matter in question by pointing out that "the Government will not issue letter of no objection in respect of assemblies, demonstrations and processions to any person who seeks to paralyse the financial centre". In his reply he further indicated that the Government would "act in accordance with the law". The Chief Executive did not and will not interfere in CP's decisions on the handling of public processions and meetings in accordance with the laws of Hong Kong. As in the past, the police shall handle all public processions and meetings according to the law. It is worthwhile to note that no public meeting has ever been organized with an aim to cause a large-scale paralysis of Central. We would like to take this opportunity to remind the public that the initiators of the "Occupy Central" activity have earlier made it clear that "occupying Central by civil disobedience" is an act against the law. As early as January 2013, one of the initiators, in a newspaper article entitled "The Most Lethal Weapon of Civil Disobedience", remarked that in a bid to paralyse the political and economic hub of Hong

Kong, non-violent means of civil disobedience would be employed by rallying up to 10 000 protestors to occupy the main roads in Central illegally for a long period of time, with a view to forcing the Central Government to accede to their demand. In May 2013, the initiator, in another article entitled "What Offences Could Be Committed By 'Occupy Central'?", further pointed out the laws that the participants might possibly contravene, as well as the penalties to which first offenders might be subject to. Having regard to these open statements, the initiator of the movement has explicitly admitted that "occupying Central by civil disobedience" is an act against the law.

- (3) All government departments have to strictly comply with the provisions in the Personal Data (Privacy) Ordinance when collecting and handling personal data. Unless the exemptions as set out in the Personal Data (Privacy) Ordinance are applicable or the prescribed consent of the data subject has been obtained, personal data may only be used for the purpose for which the data was collected or a directly related purpose.

DR KWOK KA-KI (in Cantonese): *President, the Secretary's reply is disappointing. The Occupy Central movement has already made it clear that there is no need to Occupy Central if genuine universal suffrage can be implemented. But the Government has put the cart before the horse and made no real effort to strive for universal suffrage for the people. As revealed by a programme of the Radio Television Hong Kong on deliberative polling in March this year, 70% of the people demanded that civic nomination be included as a condition of electing the Chief Executive by universal suffrage. But instead of heeding this view, the Government has, firstly, resorted to verbal threats and hints of retribution made by Eddie NG against schools and school teachers. Secondly, right in front of this Council, LEUNG Chun-ying bypassed CP and made a prior political decision by stating clearly that letters of no objection would not be issued in respect of the relevant assemblies or processions, even before any such applications have been submitted. Then the White Paper was issued by the State Council. Recently, Occupy Central has come under the attacks of unidentified hackers.*

Secretary, under the situation, the Government should actually work to resolve these issues. As 70% of the people have already indicated support for

proposals with an element of civic nomination, if the Government really takes on board public views, it should incorporate this option into the document for the second round consultation on constitutional development, so that genuine universal suffrage will be implemented in a pragmatic manner. In that case, Occupy Central will basically not take place at all. By taking its current practices, is the Government trying to incite the people and stir up trouble so that Occupy Central will actually take place, and we will never have genuine universal suffrage?

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Constitutional and Mainland Affairs, please.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, in the main reply just now, I have already stated clearly the Government's current pace and stage of work. In the main reply just now, I have also pointed out clearly that as we proceed to the next stage of work at the end of this year, the SAR Government will publish the second stage consultation document and put forward specific proposals in order to further forge consensus in the community. First of all, our proposals should be, legally, in accordance with the Basic Law and relevant Interpretation and Decisions of the NPCSC. Secondly, they should stand a reasonable chance of gaining support of the community and securing passage by a two-thirds majority of Members in the Legislative Council. We are now compiling the first stage consultation report, and the second stage consultation has yet to begin.

Regarding the various opinion polls mentioned by Dr KWOK just now, we have been keeping them in view. Moreover, we will pay attention to different opinion polls conducted by newspapers or other organizations on the matter recently. In particular, we note that over the past nine months or so, with the completion of the first round consultation, some suggestions or proposals might have undergone extensive and thorough discussion in the community. We believe that with more discussion in society, it will eventually become clear as to which proposals are in accordance with the requirements of the law and which proposals are not.

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN, what is your point?

MR CHAN CHI-CHUEN (in Cantonese): *I request a headcount.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Dr KWOK, do you have a follow-up question?

DR KWOK KA-KI (in Cantonese): *President, the Secretary has not answered my supplementary question.*

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

DR KWOK KA-KI (in Cantonese): *My supplementary question is very clear. By not incorporating the proposal with support from 70% of the people into the second stage consultation document, is the Government trying to incite the people and turn Occupy Central into a reality, so that we will end up with no genuine universal suffrage?*

PRESIDENT (in Cantonese): Dr KWOK, the Secretary has already answered your question, only that you are not satisfied. Please follow it up on other occasions.

MR JEFFREY LAM (in Cantonese): *President, the Government mentioned in part (2) of the main reply that, "As in the past, the police shall handle all public processions and meetings according to the law." This morning, I heard on radio the account given by Mr LEE Cheuk-yin, a member of the public. He said that*

during the public assembly resulting in the storming of the Legislative Council, a plain-clothes police officer, who carried a police warrant card, mingled in the crowd, trying to incite the protestors and stirring up trouble. I would like to ask the Government: Given the Secretary's assertion that the police will handle the matter according to the law as in the past, how would the police handle the abovementioned situation should it happen? Has similar incident happened in the past? What will the Administration do if such allegation is made against the police?

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Security, please.

SECRETARY FOR SECURITY (in Cantonese): President, first of all, when dealing with large-scale processions and demonstrations, the police will not deploy any officers to incite other people. Hence, this is a serious allegation. I also hope that any person making such an allegation can provide the relevant information to the police because this is the only way to ascertain fairly whether the allegation is founded or not. Any information provided in relation to the incident will be handled by the police seriously.

As mentioned in the main reply, the police will deal with the relevant matters according to established procedures. In other words, public meetings and processions must be held in accordance with the requirements under the Public Order Ordinance (Cap. 245). That is, public meetings with attendance of more than 50 persons and public processions with attendance of more than 30 persons shall notify the police according to the provisions in sections 8 and 13A of the Ordinance. Moreover, there are clear provisions under the Ordinance as to how the police should handle such public meetings and processions when notifications are given. Hence, the established procedures as mentioned in the main reply are the stipulated requirements under the Public Order Ordinance (Cap. 245).

MR CHAN HAN-PAN (in Cantonese): *President, what happened last week clearly revealed that the storming of a small number of protestors could cause disastrous consequences. Hence, any claim that Occupy Central will be held in a peaceful way is basically a hoax of the century, the "mini-bond" of democracy*

or a scam to send youngsters to prison because no one can guarantee that Occupy Central can proceed peacefully. As a general principle, if some people have already claimed or stated their intention to occupy a particular place, and if the police still issue a letter of no objection to them, it would be tantamount to conniving them ...

PRESIDENT (in Cantonese): Mr CHAN, please ask your supplementary question.

MR CHAN HAN-PAN (in Cantonese): *... or even be regarded as giving tacit approval to their occupation. However, in the Government's reply to Dr KWOK Ka-ki's question ...*

PRESIDENT (in Cantonese): Mr CHAN, please ask your supplementary question.

MR CHAN HAN-PAN (in Cantonese): *My supplementary question is: I find the Government's reply very ambiguous and disappointing. Can the Government tell the public in more specific words that in case of any movement claiming to occupy a particular place, they can rest assured that the Government will not only refuse to issue a letter of no objection, but will also take strong actions to stop it, so as to safeguard people's lives and properties from any threat?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Security, please.

SECRETARY FOR SECURITY (in Cantonese): President, in Hong Kong, we must all act in accordance with law. In handling mass activities such as large-scale processions and demonstrations, we must deal with them according to the laws of Hong Kong, and the relevant legislation is the Public Order Ordinance (Cap. 245). Regarding the holding of large-scale processions and demonstrations, that is, public meetings with attendance of more than 50 persons and public processions with attendance of more than 30 persons, the Ordinance

has already provided specifically the actions to be taken by the parties concerned in order to comply with the law. Under the law, any person who intends to organize such assemblies or processions which are required by law to notify the police must give prior notification to the police, or else, he would have contravened the Public Order Ordinance. Participants of these assemblies held without notification and approval may also contravene various provisions under the Ordinance.

For example, under section 17A of the Ordinance, any person who knowingly contravenes the orders issued by the police has contravened the said provision and is liable to the maximum penalty of imprisonment for 12 months. Any person who takes part in an unauthorized assembly has also contravened the Ordinance and is liable to the maximum penalty of imprisonment for five years. Any person who causes serious obstruction without any reasonable excuse has contravened the offence in relation to obstruction specified under the Summary Offences Ordinance and is liable to imprisonment for three months. A more serious offence is the contravention of section 18 of the Public Order Ordinance in relation to unlawful assembly, which is subject to the maximum penalty of imprisonment for five years. If an unlawful assembly eventually gets out of control resulting in chaos, the relevant persons may also contravene other provisions under the Ordinance, incurring more severe penalty. Hence, I appeal to members of the public again that while we have the right to express views, we must proceed peacefully and lawfully in accordance with law.

MR CHAN HAN-PAN (in Cantonese): *President, the Secretary has not answered my supplementary question.*

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

MR CHAN HAN-PAN (in Cantonese): *President, my question is that if someone has specifically said that he intends to occupy a particular place, will the police issue a letter of no objection to that person for the activity to be held as declared? Is that what the police will do?*

SECRETARY FOR SECURITY (in Cantonese): President, the matter must of course be dealt with according to the actual situation, and by that, I mean whether that person has given notification to the police in accordance with the Public Order Ordinance. If he has given such a notification, we will handle the case according to the procedures specified under the Ordinance. If he has not given a notification under the Ordinance, as I have explained clearly in my reply earlier, he has already contravened the Ordinance, and the offence he might have committed has already been specified under the Ordinance.

MR ALAN LEONG (in Cantonese): *I think when Mahatma GANDHI, the Father of the India, led the Indians to collect their own salt from the sea, or when Martin Luther KING led the people in a march to Washington 50 years ago, they had made no prior application for letters of no objection.*

President, since Secretary Raymond TAM has quoted from some articles and speeches of Prof Benny TAI in part (2) of the main reply, I assume that he is quite familiar with the articles written by Prof Benny TAI, and he would surely know that Prof TAI has once said that there is no need to Occupy Central so long as Hong Kong people can have genuine universal suffrage, that is, if they can have genuine choices without any screening. Hence, my supplementary question is: As a member of the "constitutional reform trio", what will Secretary Raymond TAM do in the days to come for forging a consensus among Hong Kong people, so that the Chief Executive will be elected through genuine universal suffrage and without any screening in 2017 as stated by Prof TAI?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, the main reply has already set out our work in the past six months and in the latter half of the year, as well as the steps of our work in this regard. First of all, we will prepare the first stage consultation report and submit it to the Chief Executive. The Chief Executive will then submit his report to the NPCSC in order to kick-start the "Five-step Process" of constitutional development successfully. By that time, I think the second stage consultation will be launched according to the circumstances.

In the second stage consultation, we will of course put forward specific proposals of the SAR Government in order to further consult members of the public and seek the community's support, especially for support by two third of

Members in the Legislative Council. On this basis, I think it is essential for all parties to maintain communication politically and enhance our contacts. But two elements are critical to the successful implementation of universal suffrage. First, we must proceed in accordance with law. By that, I do not only mean that the proposals concerned must be in accordance with the Basic Law and relevant Interpretation and Decisions of the NPCSC, but the methods used by any party to fight for its preferred proposal must also comply with the laws of Hong Kong. The Secretary has already elaborated on this point just now.

Second, we must work on the basis of mutual trust. Hence, if any party resorts to blatant intimidation or threats when striving for its preferred proposal in order to force the other party to concede, I think it will not form a good basis of mutual trust. I hope that in any future contacts among the parties concerned, we can communicate in a reasonable manner with more sincerity and mutual respect. That is how we can hopefully achieve universal suffrage for the Chief Executive election in 2017 in a timely manner and in accordance with law.

MR CHRISTOPHER CHUNG (in Cantonese): *President, in the main reply to Dr KWOK Ka-ki's main question, Secretary Raymond TAM said that in respect of the unlawfulness of Occupy Central, the open remarks of the initiator of the movement has explicitly admitted that "occupying Central by civil disobedience" is an act against the law. I concur with this view. It is because during the storming of the Legislative Council which took place in the past two Fridays, various acts of extreme violence have emerged, and they constitute different acts of crime.*

Hence, my supplementary question is: As the Security Bureau already knows that these acts would take place, what will be done by the Crime Prevention Bureau of the Hong Kong Police Force for prevention? Since we have seen and condemned these crimes, what actions will be taken by the police to prevent an unlawful and violent Occupy Central which could result in the loss of lives and properties to the detriment of Hong Kong?

SECRETARY FOR SECURITY (in Cantonese): President, while the initiators of Occupy Central are now disseminating their ideas through different channels, we can only know what will happen when the activity actually takes place.

Should Occupy Central really happens, I am highly confident that our police are capable of dealing with it. Such confidence is based on several factors. First, the Police Force is an outstanding and professional team. Second, given the previous records of the police in dealing with large-scale mass activities and the methods adopted, we have full confidence in them. Third, the police have attached great importance to this matter. The police are highly vigilant and have made full preparations in various aspects, including the formation of a preparatory team to conduct studies, comprehensively evaluate the latest situations and collect updated news. The police have also formulated different proposals and devised the relevant prevention and contingency strategies as well as the worst-case scenarios. The police will be fully prepared in terms of training, equipment, manpower, technical consideration, and so on. I am totally confident in the force.

MR CHRISTOPHER CHUNG (in Cantonese): *I think the Secretary has not answered my supplementary question. As he has already acknowledged that those acts are unlawful, why does he refuse to take strong actions and arrest the criminals?*

PRESIDENT (in Cantonese): Mr CHUNG, the Secretary has already answered. This Council has already spent 24 minutes on this question. Fourth question.

Contract Homes and Enhanced Home and Community Care Services for Elderly

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *President, the Government announced in the 1999 Budget the introduction of a competitive bidding system for the delivery of social welfare services, with price and quality being the criteria for evaluation of bids. Subsequently in 2001, the Social Welfare Department (SWD) started granting time-limited contracts for "Contract Homes" and "Enhanced Home and Community Care Services"(EHCCS) for the elderly through competitive bidding. I have learnt that a new bidding exercise will shortly be conducted for the EHCCS project, and subsequent to the failure of some service agencies in bidding for the new contracts, some users of such services have experienced difficulties in adapting to the services provided by new service agencies and their staff. Moreover, some service agencies have ceased employing experienced staff, whose salaries were relatively higher, for the*

purpose of reducing costs so as to boost their chance of success in the bidding, resulting in deterioration of the service quality. In this connection, will the Government inform this Council:

- (1) of the respective numbers of contracts for Contract Homes and EHCCS awarded to new service agencies through competitive bidding in each of the past 10 financial years;*
- (2) whether it has considered incorporating provisions into the tender documents for EHCCS to the effect that the pay offered to the relevant staff by the successful bidders must be adjusted in line with the pay adjustments for civil servants each year; if it has, of the details; if not, the reasons for that; and*
- (3) as there are views that SWD's granting of time-limited contracts for EHCCS by competitive bidding will result in low morale among the front-line staff and aggravate the brain drain problem, whether the authorities will consider bringing such services within the ambit of the Lump Sum Grant Subvention System; if they will, of the details; if not, the reasons for that?*

MR CHAN CHI-CHUEN (in Cantonese): *President, a point of order. I request a headcount.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to the questions raised by Mr CHEUNG Kwok-che is as follows:

- (1) Since 2001, the SWD has been selecting Contract Homes service operators through contract bidding, and service contracts have been awarded for the operation of 24 Contract Homes. In the past 10 years, two of the service operators of these Contract Homes have

been changed. For the EHCCS, after its regularization in 2005, service contracts were also awarded to service operators through contract bidding. There has been no change in service operators for EHCCS as the Government has extended the contracts with service operators to continue the provision of services.

(2) and (3)

Given Hong Kong's ageing population and the rapidly increasing number of elderly persons, the demand for home care services is very keen and service places and service teams have increased accordingly. The aims of awarding service contracts through contract bidding are to enable the service providers to provide more flexible services for service quality enhancement and allow more operators which can meet the service quality requirements to take part in service provision.

The Government has set out clearly in EHCCS contracts the contract service fees for the whole contractual period so that bidders may carefully consider and estimate, before bidding, their income and expenditure for the contractual period, and take this into account when preparing the tender to ensure continual provision of quality services. It is also expressly provided in the contracts that the contract service fees will be adjusted annually according to the Composite Consumer Price Index so that operators can cope with the increase in expenditure owing to inflation during the service period. Service operators may, based on individual circumstances, deploy resources flexibly to employ suitable staff to deliver services according to the contractual requirements. To avoid limiting the service operators' flexibility in resource deployment, the SWD has not included clauses on the level of staff remuneration in the service contracts.

At the meeting of the Legislative Council Panel on Welfare Services on 9 June 2014, we listened to the views of the Panel Members and representatives from the welfare sector on the funding mode for EHCCS. The sector expressed its wish to change the funding mode for EHCCS from the existing contract bidding to annual subvention under the Lump Sum Grant. This would represent a fundamental

change. We will need some time to consider and examine this carefully.

The existing 24 service contracts, which involve a total of 5 579 service places, are due to expire in late February 2015. Moreover, to further enhance the support for frail elderly persons to age at home, we have secured resources to provide 1 500 new service places from March 2015 onwards. There is thus an urgent need to decide, before February 2015, on the service operators for these 7 079 service places.

The welfare sector has already agreed that the contracts for the 1 500 new service places will be awarded through contract bidding. For the existing 5 579 service places, both the Panel on Welfare Services and the sector hope that the Government will consider extending the existing 24 contracts by administrative means to allow the existing service operators to continue their services for the elderly. We are actively exploring this proposal internally.

MR CHEUNG KWOK-CHE (in Cantonese): *President, the Secretary mentioned that the mode of contract bidding has been adopted for over 10 years. Obviously, under this mode, operators will certainly change. For services that are people-oriented, especially for services provided to the elderly and persons with disabilities, this is not desirable. Fortunately, the Secretary said that he would carefully consider and examine the feasibility of changing the funding mode to the Lump Sum Grant Subvention System (Lump Sum System). I hope that he will give the sector a positive answer.*

In part (2) of his answer, the Secretary pointed out that, "It is expressly provided in the contracts that the contract service fees will be adjusted annually according to the Composite Consumer Price Index". However, as we all know, the annual civil service pay adjustment rate is often higher than the Composite Consumer Price Index (CPI). I would like to ask, apart from the Composite CPI, will the Government consider adopting the annual civil service pay adjustment rate as one of the criteria for adjustment, so that the staff will not just get a minimum pay adjustment.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, I thank Mr CHEUNG for his suggestion. There are justifications for us to use the*

Composite CPI over the past 10-odd years. Regarding the suggestion to use the civil service pay adjustment rate, I wish to point out that under the Lump Sum System, we allocate the funding to the various subvented agencies by proportion and let the agencies decide how the funding should be used. However, we also call on the agencies to spend the funding on their staff as far as possible. The process is flexible. I believe that using the composite CPI is suitable for the contract arrangement at the present stage.

MR CHEUNG KWOK-CHE (in Cantonese): *President, the Secretary has misunderstood what I have said. We are now talking about the mode of contract bidding, not the Lump Sum System, and the contract bidding only uses the Composite CPI as the adjustment criterion. I hope that apart from the Composite CPI, the Secretary will also adopt the civil service pay adjustment rate as one of the adjustment criteria.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): *President, I have already pointed out clearly that in general, only the Lump Sum System will use the civil service pay adjustment rate as one of the criteria, but the service in question does not belong to that category. As we are aware, the service concerned is delivered through contracts and the operators use the one-off contract service fees to pay the expenses. Hence we consider it suitable to use the inflation rate, that is, the composite CPI, as the adjustment rate. However, concerning Mr CHEUNG Kwok-che's suggestion, we do not rule out that we will consider it in our future reviews. We are willing to consider the matter afresh.*

MR FREDERICK FUNG (in Cantonese): *President, under the bidding system, the contract is usually awarded to the lowest bidder. Of course, we opine that the tender system is not suitable for the delivery of elderly services, because other than facilities, elderly services also involve the relationships among the service agency, social workers, caring staff and the elderly residents. A good relationship will gain the confidence of the elderly residents. Elderly service is not only restricted to "serving tea and water to the elderly", but also involves helping the elders to seek medical treatment or even providing personalized service, such as bathing them or helping them to go to toilet. Therefore, the staff should build up a relationship with the elderly residents, and the longer the time, the better the relationship. Only then will the elderly have trust in them.*

Many agencies and bodies hope that the answer of the Secretary today ... Although in the last paragraph of his answer, the Secretary said that consideration will be made, can he give a more specific reply today? As a new bidding exercise will be held early next year, will the Government make a decision to change the bidding system late this year or early next year, or at least renew the contract one more time and conduct a review within three years, so as to allow the sector to make preparation during the three-year period?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr FUNG for his views and question. In fact, we have good communications with the sector, Members and the Panel. On 23 April, we held a meeting with the representatives of the Hong Kong Council of Social Service and over 10 operators, and we had a thorough discussion. Besides, at the meeting of the Panel on Welfare Services held last Monday, we also had a very candid exchange of ideas.

First, we are willing to conduct a study. But I wish to stress that our adoption of the contract bidding mode is based on certain justifications and policy considerations. We are also aware of the aspirations of the community. We will handle them separately. For the 1 500 new service places, we all agree that they will be awarded through contract bidding; and for the 5 579 existing service places, we understand the relevant worries and concerns. However, as a fundamental change of policy is involved in changing from the contract bidding mode to the Lump Sum System, it cannot be achieved overnight. In the process, we need to consider many issues as a change of policy is involved.

At the same time, we will also need to have good communication with the Financial Services and the Treasury Bureau and we also have to consider the overall Elderly Services Programme Plan which will be implemented in the next two years. In the whole process, we have to consider all the relevant proposals. Hence, we tend to conduct active studies and if feasible, we will extend the existing contracts during the transitional period before we consider the way forward. At least, we can provide the staff and the agencies a stable environment, in the hope of achieving a win-win situation. We hope that there will be ample time for us to consider the repositioning of the policy while the services will not be disrupted during the transitional period. In so doing, we can ensure that the elderly residents, the staff and the agencies will not be affected. We are considering this subject in this direction.

(Mr Frederick FUNG stood up)

PRESIDENT (in Cantonese): Mr FUNG, what is your point?

MR FREDERICK FUNG (in Cantonese): *I have a point to raise. Of course, we welcome the direction mentioned in the Secretary's reply. However, in my supplementary question, I asked the Government whether it will first renew the contract within this year, given that the contracts should be renewed early next year?*

PRESIDENT (in Cantonese): I have clearly heard your supplementary question and the Secretary has actually answered your question. Secretary, are you willing to give Mr Frederick FUNG a "yes" or "no" answer?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I can specifically tell Mr FUNG that we will first deal with the contracts before its expiry in February next year. What we intend to do, for the time being, is to renew the contracts first by administrative means during the transitional period. We are exploring this practice internally and will discuss with the colleagues from the Financial Services and the Treasury Bureau. After settling the issue, we will consider the measures to be taken in the long run.

MR LEUNG YIU-CHUNG (in Cantonese): *President, according to the contract bidding system, the agencies originally awarded the contract may not have its contract renewed because in the bidding process, many factors may lead to an agency's failure to have its contract renewed. It is stated in the relevant document that two agencies fail to have their contracts renewed.*

I would like to ask the Secretary why the mode of contract bidding should be adopted. What are the advantages and disadvantages under this mode? After weighing the pros and cons, why did he decide to adopt this approach?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, Mr LEUNG, starting from 2000-2001, we have a new direction and a new policy in respect of social welfare services, especially elderly services, that is, we will award service contracts to Contract Homes operators through bidding. We also launched a pilot scheme for the services and regularized it in 2005.

My answer is very simple. In fact, our aim is also very simple. Firstly, we hope that through contract bidding, a service provider has greater flexibility in providing the services and enhancing the quality, which is very important. Secondly, this approach allows more agencies the chance to provide service, thereby the whole sector will become more diversified and creative and can offer better service. This is a right direction.

As a matter of fact, for some time in the past, we have granted service contracts to 24 Contract Homes and most of the operators do not have problems in getting their contracts renewed. It is most important to have good service quality, and most of the operators can have their contracts renewed. The Member mentioned that only two operators have their contracts renewed, which is not the fact. Most of the operators have no problems, only two operators have decided not to bid again, and we have not barred them from bidding. Members must understand that the system has been operating rather smoothly in the past 10 years and the comments received are also rather positive.

(Mr LEUNG Yiu-chung stood up)

PRESIDENT (in Cantonese): Mr LEUNG, what is your point?

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary heard me wrong. Just now I said that two operators failed to have their contracts renewed. Perhaps I did not speak loud enough in saying the word "fail". I mentioned that two agencies failed to have their contracts renewed. However, that was not my main point. He did not answer me ...*

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

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary has talked about the advantages, what about the disadvantages? Can the Secretary tell me if he thinks there are disadvantages?*

PRESIDENT (in Cantonese): Secretary, can you tell Members whether the contract bidding system has any disadvantage?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Frankly, we treat this issue very objectively. At that meeting and also in the main question, Mr CHEUNG brought up the relevant issues and the sector had also expressed their worries and concerns in several aspects. The first problem is continuity. For example, the elders may find the new service agencies and their staff unfamiliar. We do understand these problems, but on the whole, we hope that the service can be implemented smoothly. Besides, age at home is still our focus. Hence after that meeting, we promised to examine whether the funding of the 5 000-odd service places can be granted under the Lump Sum Grant instead. So long as it is feasible under the system, we promise to follow up.

IR DR LO WAI-KWOK (in Cantonese): *President, regarding the mode of delivering the service contract, I would like to ask the Secretary whether the Government has set down any specific service indicators that can measure the service quality. I am talking about service indicator, but not the contents of service. I focus on the quality of service. To ensure high quality of service, has the Secretary required the service providers to set up a service management system or even to obtain certification for the service? Will the Secretary give an account of it?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank IR Dr LO for his question. We do have some specific requirements. Our requirements are stipulated in the service contract and we have also put in place a monitoring system. Therefore, in the whole process, we monitor their service to ensure their quality. We have also a set of service indicators. In other words, service operators cannot willfully do whatever they like after being awarded the contract. In this connection, the service standard of the operators is crucial and we will definitely keep a close watch.

IR DR LO WAI-KWOK (in Cantonese): *President, the Secretary has not answered a specific point in my supplementary question concerning whether the agencies are required to obtain certain certifications.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the agencies concerned are all authorized social welfare agencies rather than ordinary companies. They are all well-established social welfare agencies and have attained certain achievements. In their bid for the contract, these agencies are required to list their experience, whether their staff have received any training and how many of them have relevant qualifications, and so on. The agencies must provide this information before their applications are accepted.

IR DR LO WAI-KWOK (in Cantonese): *The Secretary has not grasped my supplementary question. At present, in respect of service management, there are some certification systems for quality management ...*

PRESIDENT (in Cantonese): Please repeat your question.

IR DR LO WAI-KWOK (in Cantonese): *But the Secretary can provide the information after the meeting.*

PRESIDENT (in Cantonese): I believe the Secretary has heard your request.

MR CHEUNG KWOK-CHE (in Cantonese): *President, I would like to follow up a point. I have recently conducted a study on the competitive bidding system and the respondents include high-ranking and middle-ranking personnel as well as front-line workers of the agencies concerned. Let me share with colleagues the conclusions I get. First, the elderly and disabled residents have to adapt to the new environment after the change of the service operator. In particular, if the service agency has a certain religious background or if the residents have certain religious beliefs, they find it hard to adapt to the changes in the religious background of the service agency. Second, as a service agency has to bid for contract again after five years, they cannot make long-term planning. Third, the change in service agency will lead to a wastage of some experienced staff. All these will affect the service quality. If the competitive bidding system is changed to the Lump Sum System, the Government can still review the agencies' services every five years and if a certain agency fails to meet the requirements, it can be replaced anytime ...*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR CHEUNG KWOK-CHE (in Cantonese): *I am glad to hear the Secretary say that the Government will conduct a study. I only wish to ask a supplementary question on one point. How long will the Government take to conduct a study? When will we hear the result?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr CHEUNG for sharing his knowledge and experience. We need time for the study and as we all know, we told Members at the Panel meeting earlier that things could not be achieved overnight. This is because, first, it involves a fundamental change in policy. Having said that, we understand Members' aspirations and worries. We are willing and are sincere in making a breakthrough in this respect.

Members may also know that we need time to tally with the implementation of the Elderly Services Programme Plan. The time needed is two years. Hence Members need not worry about the time factor. If we get the consent of the Financial Services and the Treasury Bureau and after thorough discussion, we can renew the contract of the service operators for three years by administrative means. Then, we will have sufficient time and room to decide the way forward. We will ensure that the impact on the service will be minimized. We understand the worries of the agencies. Being partners with the sector, we hope that we will work together to provide quality services for the elderly.

PRESIDENT (in Cantonese): Fifth question.

Review of Individual Visit Scheme

5. **MR WU CHI-WAI** (in Cantonese): *President, the number of visitor arrivals in 2013 exceeded 54 million, with Mainland visitors accounting for 75% of the figure and their arrivals exceeding 40 million. Early this year, some members of the public were dissatisfied that the excessive number of Mainland visitors to Hong Kong had seriously impacted on the livelihood of Hong Kong*

residents, and thus urged the Government to implement measures to limit the number of Mainland visitors to Hong Kong. The Chief Executive said at that time that Mainland and overseas visitors coming to Hong Kong could create a large number of job opportunities for the tourism industry and the grassroots in Hong Kong, and that Hong Kong people "should not become conceited before getting rich". Afterwards, an official of the Central Authorities said that he would ask the Hong Kong and Macao Affairs Office of the State Council and the China National Tourism Administration to look into Hong Kong's capacity for receiving visitors. Recently, the Government raised for discussion the issues of visitors' demand management and a 20% cut in the number of Mainland visitors to Hong Kong. In this connection, will the Government inform this Council:

- (1) whether it has assessed if the viewpoint put forward by Chief Executive that Hong Kong people "should not become conceited before getting rich" is still applicable at present; if the assessment result indicates that it is still applicable, why the Government raised for discussion the issues of visitors' demand management and a 20% cut in the number of Mainland visitors; if the assessment result indicates that it is not applicable, of the justifications for that;
- (2) whether objective consideration or the attitude of the Central Authorities is currently the primary basis on which the Government formulates the relevant policies on the Individual Visit Scheme (IVS); should it be the former, of the importance of the attitude of the Central Authorities; should it be the latter, the reasons for that; and
- (3) whether it has assessed if a reduction in the number of same-day Mainland visitors to Hong Kong will have less impact on Hong Kong's economy; if the assessment result is in the affirmative, whether the Government will discuss with the Mainland authorities changing the One-year Multiple-entry IVS Endorsements (that is, "multiple-entry permits"), currently issued to Mainland residents, to "one trip per day" permits; if it will, of the details; if not, the reasons for that?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, as an important pillar of Hong Kong's economy, the tourism industry has all along been bringing about tremendous benefits and

creating employment for Hong Kong. The tourism industry accounts for 4.7% of our Gross Domestic Product (GDP) and offers over 250 000 direct employment opportunities, most of which are jobs for the grassroots level and with relatively lower skill requirements. Nonetheless, apart from driving the development of various relevant sectors and providing a large number of employment opportunities, the growth in visitor arrivals has also brought about some challenges.

Over the past period, the community has expressed concerns about the growth in the number of Mainland visitors. We also recognize that increase in number of visitors has exerted pressure on some public facilities and affected the daily lives of individual districts. The SAR Government attaches great importance to these views. Therefore, the major recommendations in the Assessment Report on Hong Kong's Capacity to Receive Tourists (Assessment Report) completed by the SAR Government at the end of last year also proposed enhancing our receiving capacity. We are stepping up our efforts in this aspect. Besides, the SAR Government has also implemented some demand management measures, including tightening the control of export of powdered formula on the principle of "putting Hong Kong people first" when there was a shortage in the supply of some daily necessities for our community. In September 2012, when the SAR Government learnt that the Mainland would introduce a new policy to allow non-permanent residents of Shenzhen to visit Hong Kong through multiple-entry permits, we reflected the views to the Central Government, which later suspended the policy.

The SAR Government has been closely monitoring the trend of visitor arrivals. Taking into account the community's continued concerns about Hong Kong's capacity to receive tourists, the Chief Executive indicated in April this year that the SAR Government was looking into ways to adjust the growth in visitor arrivals and their composition, and would announce the outcome as soon as possible upon discussion with the Central Government and relevant Mainland authorities. Our major premise is to ensure the stable and orderly development of the tourism industry, and at the same time minimize as far as possible the inconvenience caused by increasing visitor arrivals to local residents, with a view to striking a balance between the impact of the tourism industry on Hong Kong's economy and the livelihood of the community.

Visitors from all over the world, including Mainland visitors, help boost Hong Kong's tourism industry and economic development. The SAR

Government attaches great importance to the long-term and healthy development of our tourism industry, and has been adopting a realistic and pragmatic attitude in handling tourism-related issues. As a responsible Government, we indeed have to listen to all views and adopt a balanced approach in addressing the public concerns, protecting the overall interests of the whole community and tackling the problems arising from the visitor arrivals.

In the past one to two years, some members of the public have requested to reduce the number of Mainland visitors. Some Legislative Council Members even suggested that the multiple-entry permits for permanent residents of Shenzhen be abolished altogether and that the number of visitors under the IVS be reduced substantially. However, in the recent two to three weeks, we began to receive more diverse views suggesting that we should not handle the problems arising from the number of Mainland visitors in an across-the-board manner and that various sectors of the community should have more cautious and serious discussions on this important issue. As mentioned by the Chief Executive on 27 May, reducing IVS visitors by 20% was not a specific recommendation. It was meant to stimulate various sectors of the community to give thoughts to the important issue of adjusting the number of visitors and their composition. For visitor arrivals, we hope that the community could focus on exploring the extent to which Hong Kong's economy could afford in terms of reduction in visitor arrivals. As for the composition of visitors, we have to consider carefully the target of adjustment, the type of visitors and the related economic benefits.

Over the past period, we have indeed received more views suggesting that we should work on the multiple-entry permits, and among these, some suggested making adjustments to set the limit at "one trip per day". However, according to the statistics provided by the Immigration Department, out of the cumulative total number of Mainland visitors travelling on multiple-entry permits in the five months from November 2013 to March 2014, over 96% came to Hong Kong just once a day and the remaining (about 3%) came to Hong Kong two times or more a day. Hence, we consider that the proposed "one trip per day" is not an effective means for reducing the visitor arrivals.

As I have mentioned just now, in considering the two issues of visitor arrivals and their composition, we must, at the same time, analyse objectively the impact of the adjustment measures on Hong Kong's overall economy. In other words, we have to understand the costs to be borne by the overall community upon the implementation of the adjustment measures. The key issue is the

extent to which our overall community is able and willing to bear the economic costs arising from the adjustment measures. Taking the visitor arrivals in 2013 as a reference, out of the 40.75 million Mainland visitors, about 42% were overnight visitors while 58% were same-day visitors. The average per capita spending by these two types of visitors during their stay in Hong Kong was \$8,937 and \$2,721 respectively. The average per capita spending by overnight IVS visitors from places outside Guangdong Province even reached \$14,311. Different adjustment measures will lead to different extent of reduction in visitor flow in different districts and different sectors, as well as bring about different economic impacts, including reduction in the number of employment opportunities.

The outbound travel policy for Mainland visitors, including their visits to Hong Kong, falls within the remit of the Central Government. We encourage various sectors of the community to seize the time to have extensive and serious discussions and give specific recommendations. The HKSAR Government will relay different views, including views expressed in the past two to three weeks, to the Central Government comprehensively, so that the adjustment measures eventually implemented by the Central Government would better meet the long-term and overall interests of Hong Kong.

MR WU CHI-WAI (in Cantonese): *President, according to the Government's reply, the abolition of the "one trip per day" permits is ineffective and hence needs not be implemented; on the other hand, tightening the multiple-entry permits will have economic implication and it dares not implement. Hence, it has to wait for "grandpa's" instruction. Secretary, two days ago, Macao announced that starting from 1 July this year, the maximum number of days that Chinese passport holders can stay in Macao will be reduced from seven to five. But our Government has not yet proposed any measures to address the social problems caused by IVS visitors and has been indecisive on the issue. My supplementary question is: How come Macao needs not wait for "grandpa's" instruction and can introduce measures to relieve the problems concerning carrying capacity for visitors, while Hong Kong has to wait for the instruction of the Central Government even on the tourism policy, which is within the scope of our autonomy, and allows itself to be executed by guillotine, thereby giving up "one country, two systems"?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I thank Mr WU for the supplementary question. I would like to clarify one point. Just now Mr WU mentioned the abolition of the "one trip per day" permit. However, as there is in fact no policy on "one trip per day", the question of abolition is non-existent. Nonetheless, in the meantime, the SAR Government really hopes that different sectors in society will give their views on the number and composition of tourists. To this end, we have been very proactive in maintaining communication with various parties. We have also provided some objective data on both economic capacity and tourist carrying capacity so as to facilitate more in-depth understanding of the problem in order to find a balanced solution.

As to the problem concerning endorsements mentioned by Mr WU, I would like to point out that the assessment of applications for IVS endorsements has its constitutional basis. Article 22(4) of the Basic Law provides that "For entry into the Hong Kong Special Administrative Region, people from other parts of China must apply for approval". In this regard, the Standing Committee of the National People's Congress (NPCSC) made the following interpretation on the provision in 1999: Mainland residents who wish to enter Hong Kong for whatever reason must apply to the relevant authorities of their residential districts for approval in accordance with the relevant national laws and administrative regulations, and must hold valid documents issued by the relevant authorities before they can enter the Hong Kong Special Administrative Region. As such, there is a constitutional basis and the decision is made by the Central Government. Therefore, I mentioned in the main reply that in the meantime, the SAR Government hopes to effectively reflect to the Central Government the views of Hong Kong people on the number and composition of tourists, so that the policies of the Central Government can meet the long-term and overall interests of Hong Kong.

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN, what is your point?

MR CHAN CHI-CHUEN (in Cantonese): *I request a headcount.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr WU Chi-wai, what is your point?

MR WU CHI-WAI (in Cantonese): *I would like to follow up because the Secretary has not answered my question. My supplementary question is in fact on the last paragraph of the Secretary's main reply but the Secretary has talked about a lot of issues on central policies ...*

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

MR WU CHI-WAI (in Cantonese): *I would like to ask whether the SAR Government has taken the initiative to put forward improvement measures so that the Central Government can complement. But the Secretary has not answered this at all.*

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

MR WU CHI-WAI (in Cantonese): *My supplementary question is whether the SAR Government has taken the initiative to put forward policies to improve the IVS, so that the Central Government can complement and relieve the pressure on the tourist carrying capacity of Hong Kong.*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I have already pointed out clearly that the Government has not made a final decision at the moment. In the meantime, we would like to listen to the opinions of the industry and the public so as to understand their views on the

number and composition of tourists. We will reflect such views to the Central Government for a decision.

MS CLAUDIA MO (in Cantonese): *President, I feel puzzled by the Secretary's main reply. In the recent two to three weeks, some diverse views have suddenly emerged, which give us the impression that the Government is like "a thief calling thief" and putting up a show.*

My supplementary question is on the Secretary's main reply. He advised that some Legislative Council Members even suggested abolishing the multiple-entry permits altogether. Such a reply is just like playing a "human flesh recorder". The Secretary made the same reply last week but at that time he named me and Mr Gary FAN ...

PRESIDENT (in Cantonese): Please ask your supplementary question.

MS CLAUDIA MO (in Cantonese): *President, last week Mr Gary FAN and I commissioned the University of Hong Kong to conduct a survey to gauge the views of Hong Kong people on the IVS. The findings showed that 60% of Hong Kong people thought that the number of IVS visitors should be reduced, of which 30% thought that the number should best be reduced by half to the level in 2009 ...*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MS CLAUDIA MO (in Cantonese): *... and 60% of the respondents thought that the multiple-entry permits should be abolished altogether. My supplementary question is how the Secretary responds to such public views?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thank you, Ms MO for the supplementary question. In fact, the SAR Government, the industry and the public hope that Hong Kong can become a good tourist destination so that incoming tourists can have a rich and enjoyable time here. We certainly think that some radical actions such as the "wheeled

suitcases" campaign in which individual Members have also taken part are not conducive to the development of Hong Kong tourism.

Just now I mentioned that in the recent two to three weeks, we have received more diverse views. Honourable Members have also expressed their views in this regard and pointed out that a reduction in the number of tourists will cause economic concerns. In particular, in view of the present general economic environment and the uncertainties faced by Europe and the United States ...

MS CLAUDIA MO (in Cantonese): *President, I ask how the Secretary responds to public views but he is talking about his "bureaucratic views".*

PRESIDENT (in Cantonese): Ms MO, please sit down. Secretary, please answer directly to Ms MO's supplementary question. Does the Government have any response to the survey findings as mentioned by her?

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, the point I am going to raise is the importance of tourism to Hong Kong's economy. I am also aware of the different survey findings during this period of time. I certainly welcome members of the public and individual organizations to express such views to us, so that the Central Authorities can take them into full account.

I am also aware of the survey findings mentioned by Ms Claudia MO just now. We have noticed at the same time that the survey has focused on gauging public opinions on the number of visitors. But as mentioned in my main reply just now, apart from the number of visitors, we also want to put forward more specific recommendations regarding the target number and composition of tourists, so as to strike a balance between the impacts on livelihood and economic development. However, I have also noticed that the survey does not ask the respondents of their views on the economy. Therefore, apart from taking the number into consideration, we have to assess the impact of the composition of tourist on the economy. Certainly I welcome all such surveys because they allow the Central Government to listen to the views of different parties before it makes a decision.

MS CLAUDIA MO (in Cantonese): *President, I protest that the Secretary is acting like a "human flesh recorder".*

PRESIDENT (in Cantonese): Ms MO, you are not allowed to debate in this session.

MR KENNETH LEUNG (in Cantonese): *President, I do not agree with the Secretary that the tourism industry, which accounts for 4.7% of our GDP, plays a very important part in our economy. The reason is that a working population of 250 000 can only generate 4.7% of the GDP but the opportunity cost of developing tourism is very high. In fact we have been discussing about economic restructuring for 10 to 20 years. But has the Secretary done anything? Or does he only depend on trading to drive the 4.7% share of the economic development of Hong Kong?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I would like to point out that 4.7% is the percentage of the tourism industry in the GDP of Hong Kong, which is in fact a very significant figure. Among this 4.7%, inbound tourism accounts for 3.9% while outbound tourism accounts for 0.8%, offering 250 000 employment opportunities for Hong Kong. As such, tourism industry is very important and we should not undervalue the figures in this aspect.

MR KENNETH LEUNG (in Cantonese): *President, specifically, the supplementary question I asked just now is whether the Secretary has ever considered the problem of economic restructuring. But the Secretary is already satisfied with the percentage of 4.7% and a working population of 250 000 ...*

PRESIDENT (in Cantonese): Members should ask one question only and should not give too many comments. Mr LEUNG, please repeat your supplementary question.

MR KENNETH LEUNG (in Cantonese): *President, my supplementary question is whether the Secretary has ever considered leading the economy of Hong Kong*

towards restructuring, instead of only focusing on the percentage of 4.7% and a working population of 250 000?

PRESIDENT (in Cantonese): Secretary, what the Member asks is on economic restructuring.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): I thank Mr LEUNG for the supplementary question. In fact we are focusing on the topic of tourism today and hence I will share with Members some figures related to tourism. Diversified development is necessary in our economy. Hong Kong is developing various industries, including high value-added and diversified industries, which I have repeatedly brought up in this Council. For example, intellectual property trading, which we have been determined to promote nowadays, is a different industry that is developed out of the comparative advantages of Hong Kong. We certainly know well about the four pillar industries as well as the six industries where Hong Kong enjoys clear advantages. They are the diversified economic development of Hong Kong. As we are discussing on tourism today, the information I provide is related to tourism.

MR MICHAEL TIEN (in Cantonese): *President, everybody knows the economic benefits brought about by the IVS and the job opportunities it has created for the grassroots. I need not say much on this. But it has, at the same time, caused some pressure on the general public, though I think we have not reached the critical point. However, according to my projection, if the growth rate in the coming four years is the same as that in the past four years, that is, over 20%, the total visitor arrivals will reach 100 million by 2018. I think serious problems will arise then because the number of tourists will definitely increase upon the completion of the two main cross-boundary arteries of Hong Kong, namely the Guangzhou-Shenzhen-Hong Kong Express Rail Link and the Hong Kong-Zhuhai-Macao Bridge. While I have all along stressed that the number of IVS visitors need not be reduced or frozen, I think the future growth should be controlled and adjusted. The biggest question is how to do so. To my understanding, the Central Authorities will not consider setting a quota for each city. Therefore, the best way is to cap the number of multiple-entry permits every day ...*

PRESIDENT (in Cantonese): Mr TIEN, please ask you supplementary question.

MR MICHAEL TIEN (in Cantonese): ... *I know that among the 27 million visitor arrivals, 12 million arrivals are on multiple-entry permits and the number of visitors involved is 1.5 million, that is, the average number of arrivals per visitor is eight ...*

PRESIDENT (in Cantonese): Please ask you supplementary question.

MR MICHAEL TIEN (in Cantonese): ... *if the number of arrivals is capped at 15, visitor arrivals will be reduced substantially. May I ask the Secretary among the 12 million arrivals on multiple-entry permits last year, how many of them came to Hong Kong for more than 15 times a year? If the number of arrivals is capped at 15, the figure will of course drop substantially. We may take this opportunity to reserve some quotas to those who are still waiting to come to Hong Kong. Does the Secretary have the figure in this aspect and will he consider proposing to the Central Authorities about capping the number of arrivals on the multiple-entry permits of the IVS?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): Thank you, Mr TIEN for the views. I concur with him indeed. In view of the considerable growth in the number of visitors, the SAR Government is actively exploring the impact of adjusting the number and composition of visitors on livelihood, economic development, and so on. May I reiterate that we will listen to different views in the meantime and we certainly welcome views on specific options. For example, the view expressed by Mr TIEN just now will be reflected faithfully to the Central Government. All the opinions on "15-entry" permits or "certain-entry" permits, as well as "one trip per day" permits or "certain trips per day" permits that we have heard in the past will all be reflected faithfully.

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

MR MICHAEL TIEN (in Cantonese): *Does the Secretary mean that it has reflected my views to the Central Authorities on capping the number of arrivals on multiple-entry permits, or it will consider reflecting my views?*

PRESIDENT (in Cantonese): Mr TIEN, you should only repeat the part that you think the Secretary has not answered.

MR MICHAEL TIEN (in Cantonese): *President, I ...*

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

MR MICHAEL TIEN (in Cantonese): *My supplementary question is whether the Secretary will reflect to the Central Authorities the specific suggestion of capping the number of arrivals on multiple-entry permits? Just now the Secretary pointed out ...*

PRESIDENT (in Cantonese): Secretary, please answer the question on whether you will reflect to the Central Authorities the request of capping the number of arrivals on multiple-entry permits.

Mr TIEN, you have already asked your supplementary question. Please sit down.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, we will reflect faithfully all the specific options deemed feasible by Members, such as setting a cap or "certain-entry" permits, to the Central Government.

PRESIDENT (in Cantonese): This Council has spent more than 22 minutes and 30 seconds on this question. Last question seeking an oral reply.

HKSAR Conducting Its Administrative Affairs on Its Own

6. **MR FREDERICK FUNG** (in Cantonese): *President, according to Articles 16 and 22 of the Basic Law, the Hong Kong Special Administrative Region (SAR) shall, on its own, conduct the administrative affairs of SAR in accordance with the relevant provisions of the Basic Law, and no department of the Central People's Government and the like may interfere in the affairs which SAR administers on its own in accordance with the Basic Law. However, it was reported that some officials of the Liaison Office of the Central People's Government in SAR had approached some Members of this Council in November last year regarding the vetting and approval of domestic free television programme service licence applications. In addition, on the 22nd of last month, the Hong Kong and Macao Affairs Office of the State Council (HKMAO) issued a statement relating to some Members of this Council "interrupting the speech of and throwing objects at" the Chief Executive while he was attending the Chief Executive's Question and Answer (Q&A) Session held on that day. In the statement, HKMAO stated that "... we oppose any behaviour that abuses the Rules of Procedure, and disrupts the SAR Government's policy implementation in accordance with the law ...". In this connection, will the Government inform this Council:*

- (1) *whether, before the aforesaid Q&A Session, any member of the SAR Government had discussed with the officials of the Central Authorities on any matter relating to the Q&A Session and formulated counter-measures (for example, preparing a relevant statement in advance or planning to stage a walkout en masse by the officials); whether HKMAO had issued the aforesaid statement at the request of the SAR Government;*
- (2) *whether it has studied the scope of "the affairs which" SAR "administers on its own" as provided in Article 22 of the Basic Law; whether there is any mechanism in place at present to prevent Chief Executive and the officials of various bureaux from inviting, for certain reasons (for example, to take advance of the authority of or to pander to the wish of the Central Authorities), the Central Authorities to interfere in the affairs which SAR administers on its own; and*

- (3) *whether it has assessed if HKMAO has contravened the Basic Law (including the policy of "one country, two systems" and the principles of "Hong Kong people ruling Hong Kong" and "a high degree of autonomy" being implemented in Hong Kong) by issuing the aforesaid statement; if the assessment outcome is in the affirmative, whether it will express dissatisfaction to the Central Authorities; whether it has assessed if such an act of HKMAO has caused the people of Hong Kong to be concerned about the Central Authorities violating the aforesaid policy?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the Member's question, after consulting the Office of Chief Executive and relevant departments, the Administration's consolidated reply is as follows:

According to Article 12 of the Basic Law, the Hong Kong Special Administration Region (HKSAR) shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People's Government. According to Article 2 of the Basic Law, the National People's Congress authorizes the HKSAR to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of the Basic Law. According to Article 16 of the Basic Law, the HKSAR shall be vested with executive power. It shall, on its own, conduct the administrative affairs of the HKSAR in accordance with the relevant provisions of the Basic Law.

Since the establishment of the HKSAR, the Central Government has been acting in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people administering Hong Kong" and a high degree of autonomy, as well as the provisions of the Basic Law to support the Chief Executive and the HKSAR Government in administering Hong Kong in accordance with law. When the Premier of the State Council LI Keqiang met the Chief Executive of the HKSAR on 17 December 2013 during the latter's visit to Beijing to report on the work of HKSAR, Premier LI reiterated the above stance and support of the Central Government towards the HKSAR.

At the same time, according to the provisions of the Basic Law, such as those in Chapter II on "Relationship between the Central Authorities and the Hong Kong Special Administrative Region", the Central Government has the power or responsibility in respect of certain Hong Kong affairs.

The Central Government has established the HKMAO as an administrative office of the State Council to handle Hong Kong and Macao affairs, and is responsible for implementing the "one country, two systems" principle and related directives of the Central Government, as well as communicating with the HKSAR Government. Since the reunification, the Central Government and its departments, the offices set up by the Central People's Government in the HKSAR and the HKSAR Government are all along required to adhere strictly to the "one country, two systems" principle and provisions of the Basic Law, and abide by their own areas of responsibility in accordance with law.

Similarly, the HKSAR Government has also been administering the affairs of Hong Kong, including the issues in question, in strict accordance with the "one country, two systems" principle and the Basic Law.

The Member's question mentioned the Chief Executive's Q&A session in the Legislative Council. I wish to take this opportunity to reiterate the Government's stance. The HKSAR Government respects the Legislative Council and attaches importance to our working relationship with the Legislative Council. However, a few Legislative Council Members have for years been using vulgar and abusive language targeted at government officials attending Legislative Council meetings and even threw objects at them within a close distance, showing no respect at all for the Legislative Council and the officials concerned and causing disruption to the conduct of the meetings. The HKSAR Government takes a serious view on the unruly behaviour of these Members. Any further tolerance will not only compromise the solemn status of the Legislative Council, but also tarnish Hong Kong's international image and seriously disrupt the orderly conduct of Legislative Council businesses, and even damage the relationship between the Executive and the Legislature and resulting in failure to live up to the public's expectations towards the Legislative Council.

Not only do we strive for a Legislative Council with democracy, we also call for a Legislative Council guided by civilized values. The HKSAR Government appeals to the Legislative Council to take action against the behaviour of the concerned Members and restore the normal operation of

Legislative Council to preserve the dignity of the Legislative Council and government officials.

MR FREDERICK FUNG (in Cantonese): *President, after reading the main reply, I am infuriated. My main question consists of three parts, but the Secretary has just ignored them and used a lot of words to cite the different paragraphs of the Basic Law, as if Members have no knowledge of the Basic Law. He has not responded to the two incidents which I mentioned. Is the Government actually taking advance of the authority of Beijing to support LEUNG Chun-ying? As said by former Chief Executive TUNG Chee-hwa, when something was not mentioned any more, it could be regarded as non-existent. Similarly, when a Member keeps asking about the Basic Law, "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy", does the fact that the Secretary has not replied imply that all such provisions are non-existent?*

(Mr CHAN Chi-chuen stood up)

PRESIDENT (in Cantonese): Mr CHAN, what is your point?

MR CHAN CHI-CHUEN (in Cantonese): *I request a headcount in order to give the Secretary some time to reflect on the question.*

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr Frederick FUNG, do you wish to raise a supplementary question?

MR FREDERICK FUNG (in Cantonese): *President, I have already raised my supplementary question, but the Secretary has not replied.*

PRESIDENT (in Cantonese): Please repeat your question.

MR FREDERICK FUNG (in Cantonese): *Do I have to repeat my question?*

PRESIDENT (in Cantonese): Yes, please repeat your supplementary question.

MR FREDERICK FUNG (in Cantonese): *President, upon reading the main reply, I am infuriated ...*

PRESIDENT (in Cantonese): You only need to repeat your supplementary question.

MR FREDERICK FUNG (in Cantonese): *I am repeating it, am I not?*

PRESIDENT (in Cantonese): Just now, you were making a statement and not asking a question. Please repeat your supplementary question.

MR FREDERICK FUNG (in Cantonese): *My question is: Is the Government taking advance of the authority of the Beijing Government to support LEUNG Chun-ying? As said by former Chief Executive TUNG, when something was not mentioned any more, it could be regarded as non-existent. Considering that the main reply has not responded to the two incidents which I mentioned in relation to "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy" in parts (2) and (3) of my main question, is the Secretary regarding them non-existent?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, while the bell was ringing just now, I have considered Mr FUNG's supplementary question once again. I believe he would like me to talk about the two incidents which he mentioned in the main question. The first incident concerns the granting of domestic free television programme service licence in November last year, as mentioned in the preamble of the main question. In this connection, Mr Albert HO actually asked a similar question at the Legislative Council meeting held on 27 November last year. In that meeting, I responded fully to the main question and the supplementary questions on the incident on behalf of the SAR Government. As full records can be found in the Official Records of Proceedings of the Legislative Council, I shall not repeat.

Another incident which Mr FUNG mentioned in the main question relates to the statement issued by the HKMAO. In my main reply, I have presented to Mr FUNG and other Legislative Council Members the provisions of the Basic Law which relate to "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy" as well as the areas of responsibility of the HKMAO. I can also provide some supplementary information now. In the relevant statement, I notice that the HKMAO commented that "the Chief Executive and government officials of the SAR must be respected when fulfilling their duties at the Legislative Council". I do not quite understand why Mr FUNG, in quoting the statement, has not included this sentence which is the crux of the problem. According to the Basic Law, the Chief Executive shall be selected by election in the HKSAR and be appointed by the Central People's Government. It is also provided in the Basic Law that the principal officials of the HKSAR, including Secretaries of Departments and Directors of Bureaux who attend meetings of the Legislative Council, shall be nominated by the Chief Executive and appointed by the Central People's Government. According to the Constitution of the People's Republic of China, the Central People's Government is the State Council. Therefore, when the State Council issued a statement saying that the Chief Executive and government officials of the SAR Government appointed by it must be respected when fulfilling their duties at the Legislative Council in accordance with the Basic Law, it was expressing an opinion in response to the incident. I think it is appropriate to do so.

DR CHIANG LAI-WAN (in Cantonese): *President, from the recent White Paper incident to this question on Article 16 of the Basic Law raised by Mr Frederick FUNG today, we can see that many people in Hong Kong have different interpretations or perceptions of the Basic Law. Will the Secretary organize more activities in future to enable people to discuss their doubts and questions on the Basic Law, or invite experts in this area to discuss with the public so that they can have a better understanding of the spirit of the Basic Law? Will the Secretary even consider prescribing the Basic Law as a compulsory subject in every university, secondary school and primary school as an initiative to promote the Basic Law?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, we will consider Dr CHIANG Lai-wan's suggestion actively. Regarding the promotion of the Basic Law after the reunification, the SAR Government has initially emphasized on widely promoting the unique features of the two systems. For example, the Government has publicized a lot about the HKSAR Passport, the rights which Hong Kong residents enjoy under Chapter III of the Basic Law and the affairs which the HKSAR can conduct on its own under Chapters V and VI. In recent years, after a number of discussions have been held on the constitutional development of Hong Kong and the relationship between the Central Authorities and the HKSAR, there are doubts as to whether the public has a sufficient understanding of the Basic Law and different sectors of the community have expressed a lot of valuable opinions in this regard. The Basic Law Promotion Steering Committee has been set up within the SAR Government which is chaired by the Chief Secretary for Administration and comprises of non-official members of different sectors of the community. I will relay my recent experience and the comments which I have heard, including the views of Dr CHIANG Lai-wan to the Committee for discussion.

I believe it is not only desirable for officials of the SAR Government to gain a sufficient and in-depth understanding of the Basic Law, it is also necessary for them to do so. The reason is that under the Basic Law, the Central Authorities have vested the HKSAR with executive power to conduct its administrative affairs in accordance with the relevant provisions of the Basic Law so as to serve the people of Hong Kong under a high degree of autonomy. If the 180 000 civil servants and the politically appointed officials lack a sufficient understanding of the Basic Law, the performance of their duties will be affected.

Therefore, in order to learn the Basic Law and gain a sufficient understanding of it, the 180 000 civil servants have to put in efforts in this area. I will also relay the relevant views to Secretary TANG for reference.

MS EMILY LAU (in Cantonese): *President, the Secretary said in his reply that the Central Government has been acting in strict accordance with the fundamental principles and policies of "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy" to support the HKSAR Government in administering Hong Kong. Last Tuesday, the White Paper issued by the State Council has made many Hong Kong people fly into a rage. People have the impression that, as stated in the White Paper, the Beijing authorities will exercise overall jurisdiction over the HKSAR and the principle of giving the SAR Government "a high degree of autonomy" will vanish in the near future. President, is the SAR Government aware that the incident has stirred up a big trouble and has it informed the Central Authorities immediately that the people of Hong Kong are very worried and furious? Has the SAR Government asked the Central Authorities to take some actions? Does it consider that the White Paper should be withdrawn and Hong Kong should be administered in accordance with the principles of "one country, two systems" and "a high degree of autonomy", as clearly stated in the main reply? Besides, two Beijing officials had decided not to visit Hong Kong. Is it because they are aware of the big trouble caused?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, Mr FUNG's question today is not concerned with the White Paper, but at next Wednesday's Legislative Council meeting, a question will be raised on the White Paper and by then, I believe I will have more opportunities to respond to Members' questions. However, I wish to make two clarifications or provide additional information at this point in response to Ms LAU's question. First, initially, the SAR Government planned to organize two seminars tomorrow after the release of the White Paper and has invited two Chinese officials ranked at Vice-Ministerial level to give a briefing to some officials and members of the public of Hong Kong. Unfortunately, the two officials cannot pay their visit this week because of other engagements. The Bureau is now discussing with the Central Authorities whether arrangement can be made for the officials to visit Hong Kong on another appropriate date. I will let Members know when more details are available.

Ms LAU mentioned the expressions of "overall jurisdiction" and "a high degree of autonomy" just now. If I remember correctly, she was probably referring to the expressions used in Chapter II of the White Paper. I suggest that Ms LAU and other Honourable Members can read the relevant parts as a whole because the sentence is long and the full stop only appears after a few lines. Considering the English translation, the whole sentence reiterates that since the HKSAR is an inseparable part and a special local administrative region of China, the Central Government has "overall jurisdiction" over the HKSAR. However, the White Paper does not stop there, but continues to explain in greater detail what the term "overall jurisdiction" means. It consists of two parts. First, the powers directly exercised by the Central Government in accordance with the Basic Law, including the power of appointing the Chief Executive and the principal officials which I mentioned earlier, and the power of approving the constitutional development of Hong Kong in accordance with Annexes I and II of the Basic Law. Second, according to the Basic Law and the Constitution, the Central Government authorizes the HKSAR to exercise powers with "a high degree of autonomy", which consists of executive, legislative and independent judicial power, including that of final adjudication. After that sentence, the White Paper explains in length by quoting some examples provided in the Basic Law.

I have read the White Paper many times. According to my understanding, the White Paper has in no way added or removed anything from the regulations or provisions of the Basic Law. In fact, the White Paper has described in length the various achievements of Hong Kong under the principle of "one country, two systems" in the 17 years after the reunification, including economic growth, social and employment situations, as well as how the interactive relationship between the Central Authorities and the SAR has ensured long-term prosperity and stability of Hong Kong under certain social circumstances such as the outbreak of SARS. The White Paper is a document which describes the relevant circumstances. Therefore, I hope Ms LAU and all other Honourable Members present will, as what I have done, carefully read the objective facts and the incidents over the past 17 years as depicted in the White Paper. Over the past week, I have noticed some discussions in our society on issues such as those relating to the judiciary and the Secretary for Justice has made some timely clarifications. If there are still questions about any part of the White Paper, we can continue to discuss rationally on occasions such as the Legislative Council meeting to be held next week. I have also noticed that there are some discussions on the constitutional development of Hong Kong, expressing concerns that universal suffrage will not be implemented after the issue of the

White Paper. The fact is quite the opposite. Although the White Paper contains a shorter discussion on universal suffrage than the consultation paper issued by the SAR Government, it reiterates two points. First, selection of the Chief Executive by universal suffrage in 2017 is a solemn commitment of the Central Government. Second, the Central Government sincerely hopes that the Hong Kong people can seek common ground while reserving differences so that selection of the Chief Executive by universal suffrage can be implemented in 2017. Therefore, I hope that Honourable Members can read the White Paper carefully and I will be happy to discuss further with Members in the future.

MS EMILY LAU (in Cantonese): *President, the Secretary has not answered my supplementary question ...*

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

MS EMILY LAU (in Cantonese): *... I do not know that one will get a more accurate interpretation of the White Paper in reading the English version.*

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

MS EMILY LAU (in Cantonese): *I asked him whether he had told the Central Government that the White Paper had caused serious problems and many Hong Kong people were very anxious and worried that the principles of "one country, two systems" and "a high degree of autonomy" would no longer be implemented.*

PRESIDENT (in Cantonese): Secretary, have you relayed Ms LAU's judgment to the Central Government?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, I believe Ms LAU's remarks represent her feelings. Certainly, given the high degree of transparency and the provision of 24-hour live broadcasting services in Hong Kong, I believe the SAR Government and the

Central Government can obtain a good understanding of how Hong Kong people react to any issue.

MR TAM YIU-CHUNG (in Cantonese): *President, the Central Government has stated its stance of supporting the Chief Executive and the SAR Government in governing Hong Kong in accordance with the law on many occasions. Article 45 of the Basic Law points out that the Chief Executive shall be appointed by the Central People's Government and Article 43 also points out that the Chief Executive shall be accountable to the Central People's Government. Therefore, when the Chief Executive is verbally or physically attacked, is there anything wrong, outrageous or shocking for the institution of the Central People's Government which is in charge of Hong Kong and Macao affairs to express concern? I would like to know the Secretary's views.*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): *President, as I mentioned earlier, under the Basic Law, the Chief Executive is the head of the executive authorities as well as the head of the HKSAR. We describe such a system as a double-headed system. According to the Basic Law, the Chief Executive is responsible for the implementation of the Basic Law; he represents the executive authorities and can designate officials to attend meetings of the Legislative Council to answer questions raised by Members and to be monitored by Members on the administration of the Government. When the Basic Law was passed in 1990, Director JI Pengfei had, in submitting the draft of the Basic Law, mentioned in the Explanations that the executive authorities and the legislature should "regulate each other" as well as "co-ordinate their activities". I hope I can add the expression "respect each other" as well. Earlier on, Mr TAM Yiu-chung mentioned the appointment of the Chief Executive by the State Council from the perspective of constitutional order. As I mentioned earlier, I think it is appropriate for the HKMAO which is an institution under the State Council to express concern about the incident, that is, whether the Chief Executive was duly respected when he attended the meeting of the Legislative Council.*

MR NG LEUNG-SING (in Cantonese): *President, I have a question for the Secretary regarding the last paragraph of the main reply. If the normal operation of this Council has to be restored, does he consider it necessary to make certain improvements to the Rules of Procedure to keep abreast of the*

times? Does the Secretary have any specific suggestions on how to preserve the dignity of the Legislative Council and government officials?

PRESIDENT (in Cantonese): I would like to remind Members that the Rules of Procedure shall be made by this Council on its own in accordance with the Basic Law.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, you have correctly pointed out that Article 75 of the Basic Law provides that the Rules of Procedure shall be made by the Legislative Council on its own. Of course, the second half of the provision also says that the rules shall not contravene the Basic Law. I believe Mr NG Leung-sing has put himself in the shoes of government officials when he expressed his views on the operation of the Legislative Council. In response to the incidents occurred in the Legislative Council, the Chief Secretary for Administration has written to the President of the Legislative Council a few times to state the stance and views of the Administration. Under the Basic Law, the Rules of Procedure shall certainly be made by the Legislative Council on its own. Therefore, the entire SAR Government has full expectations towards the Legislative Council in enforcing the Rules of Procedure effectively.

PRESIDENT (in Cantonese): Today's particularly long session on oral questions ends here.

WRITTEN ANSWERS TO QUESTIONS

Waiting Times for Hearing of and Time Taken for Delivery of Judgments on Court Cases

7. **MR CHUNG KWOK-PAN** (in Chinese): *President, in recent years, the waiting times for hearing of some court cases have been longer than the targets set by the Judiciary. In 2014-2015, the Judiciary plans to create additional judicial posts and other support staff posts, in order to relieve the pressure of inadequate manpower and shorten the waiting times for hearing of cases. In this connection, will the Government inform this Council:*

- (1) *given the indication by the Judiciary Administrator that judicial workload has been persistently heavy, whether it knows if the Judiciary will, in the long run, expedite the handling of cases by improving the workflow or the deployment of resources, apart from enhancing its manpower provision; if the Judiciary will, of the details; if the Judiciary will not, the reasons for that; and*
- (2) *whether it knows if the problem of inadequate manpower in the Judiciary has impacted on the time taken by the Courts to deliver judgments on cases after the conclusion of their hearings; of the respective times taken on average by various levels of courts to deliver judgments on cases after the conclusion of their hearings in the past three years, with a tabulated breakdown by year and by type of cases; whether the Judiciary has set any target for the time taken for delivery of judgments; if such a target has been set, of the details; if not, the reasons for that?*

CHIEF SECRETARY FOR ADMINISTRATION (in Chinese): President, the Administration has consulted the Judiciary on the questions raised. The Judiciary has provided the following information:

"Part (1)

2. First of all, it should be noted that in the past three years:
 - (a) The court waiting time targets for the Court of Final Appeal, the District Court (including those for the Family Court) and the Magistrates' Courts (except for summons) and specialized court and tribunals have all been met;
 - (b) The pressure areas largely concern the Court of Appeal and the Court of First Instance of the High Court where waiting times have exceeded their targets. This is due to more complex, lengthy and refiled cases. It is also due to the temporary constraints in the deployment of judicial manpower in the High Court as a result of the retirement of Judges and elevation of Judges to higher positions; and

- (c) The average waiting times for summonses in the Magistrates' Courts exceeded the target mainly due to the increase in the caseload or the more complex nature of disputed summonses.

3. It should be noted that despite the above-mentioned manpower constraints, the Judiciary considers it to be of paramount importance that the high standard of quality in the administration of justice should be maintained. To enhance the manpower situation and to improve the waiting times for the High Court and the Magistrates' Courts, the following measures have been/will be made:

- (a) The 2013 open recruitment exercise for the Court of First Instance Judges has been completed. Appointments from this recruitment exercise have been and will be announced as they take effect. It is planned that the next Court of First Instance recruitment exercise will be launched in the latter half of 2014;
- (b) The Judiciary is in the process of conducting open recruitment exercises for both Permanent Magistrates and Special Magistrates with a view to filling the existing vacancies in the Magistrates' Courts;
- (c) The Judiciary also completed an establishment review of Judges and Judicial Officer (JJOs) posts in 2013, which concluded that additional judicial posts at various levels of court are needed to cope with the increased workload at the High Court and to cater for JJOs at all levels of court attending training and judicial education sessions. As a result, the Judiciary will be seeking the Legislative Council's approval for the creation of seven JJO posts, including three posts for Justices of Appeal of the Court of Appeal of the High Court; one post for a Judge of the Court of First Instance of the High Court; one post for a Judge of the District Court and two posts of Magistrate; and
- (d) In the interim, additional deputy Judges have been and will be appointed to sit at various levels of court as appropriate with a view to improving the waiting times.

4. Apart from the above, the Judiciary has implemented and will be implementing the following measures to improve the efficiency of court procedures and operation so as to enhance the quality of its service.

(A) Civil Justice Reform

5. The Civil Justice Reform (CJR) came into effect on 2 April 2009. This major reform applies to civil proceedings of the High Court and the District Court, except for specialist lists to which application of the new rules will be determined as appropriate by the Judges concerned. Some of the new rules and procedures also apply to the Lands Tribunal and the Family Court with necessary modifications.

6. The objectives of the CJR are to:

- (a) Preserve the best features of the adversarial system but curtailing its excesses. One of the primary ways to achieve this is by promoting the use of greater case management powers by the courts. This would prevent tactical manipulation of the rules to delay proceedings and also ensure that court and judicial resources are fairly distributed;
- (b) Streamline and improve civil procedures; and
- (c) Facilitate early settlement by parties, eliminate unnecessary applications and, where appropriate, penalize such applications.

7. So far, the implementation of the CJR has been carried out smoothly and satisfactorily. With the court's encouragement, more and more people are considering mediation as an alternative method of dispute resolution. Further, parties to the legal proceedings and their legal representatives now increasingly recognise the need for the court to exercise greater case management powers. They are therefore more cost-sensitive in making applications to the court, and adjournments of trials have been less frequent. There are also fewer interlocutory appeals. With measures such as sanctioned payments and sanctioned offers, parties (particularly defendants) are more willing seriously to consider settlement early. Cases are generally settled at an earlier stage.

(B) Information Technology Strategy Plan

8. The Judiciary is in the process of implementing an Information Technology Strategy Plan (ITSP) for the application of information technology ("IT") to facilitate its operations in the years ahead.

9. The primary objective of the ITSP is to provide more effective and efficient services to all stakeholders in support of the administration of justice through the application of up-to-date technology to enhance logistical support to JJOs, court staff and court users and through process reengineering brought about by the wider use of IT. It is envisaged that many of the court and related ancillary processes could be performed in a more effective and efficient manner by the introduction of e-services on various fronts.

(C) Other Capital Projects

10. The number of courtrooms available at various levels of court poses constraints on the deployment of additional judicial resources to help improve court waiting times. To provide additional courtrooms and associated facilities to meet growing court services requirements, the Judiciary is in the process of carrying out two major capital projects:

- (a) The relocation of the Court of Final Appeal to No. 8 Jackson Road (where one additional courtroom will be provided); and
- (b) The construction of the West Kowloon Law Courts Building to re-provision and co-locate the existing (i) Tsuen Wan Magistrates' Courts; (ii) Small Claims Tribunal; (iii) Coroner's Court; and (iv) Obscene Articles Tribunal (where a total of 12 additional courtrooms will be provided).

11. It is expected that with the completion of the above two projects, court services and operational efficiency will be further enhanced at the respective levels of court.

12. In relation to the question of more space for the Judiciary and the need for adequate resources to meet the growing demands for court services, the Chief Justice has written to the Chief Executive. The executive authorities have been extremely receptive to a meaningful dialogue with the Judiciary on these topics. It is recognised that an efficient and independent Judiciary is cardinal to the rule of law, and that the executive authorities ought to render all necessary support to promote the effective, efficient and fair administration of justice in Hong Kong.

13. Finally, the Judiciary will continue to monitor the situation closely and deploy resources as appropriate so as to keep waiting times within targets.

Part (2)

14. With regard to the delivery of judgments and decisions, it should be noted that:

- (a) Judgments and verdicts in criminal cases are usually given immediately or within a relatively short time after conclusion of the proceedings; and
- (b) The position is the same for proceedings in the Small Claims Tribunal and Labour Tribunal where oral judgments are usually given immediately after the hearings.

15. The Judiciary only keeps limited statistics on the time taken for the delivery of judgments for certain civil cases. For the past three years, the average times taken from the conclusion of substantive hearings to the delivery of judgments or decisions for civil cases heard in the High Court and the District Court are as follows:

<i>Court Level/Type of Cases</i>	<i>Average Time (days)⁽¹⁾</i>		
	<i>2011</i>	<i>2012</i>	<i>2013</i>
Court of Appeal of the High Court			
<input type="checkbox"/> - Civil Appeals	22	28	18
Court of First Instance of the High Court			
<input type="checkbox"/> - Civil Trials/Substantive Hearings	58	69	45
<input type="checkbox"/> - Minor Appeals ⁽²⁾	46	10	29
District Court			
<input type="checkbox"/> - Civil Trials/Substantive Hearings	28	26	38

Notes:

- (1) The currently available figures were captured on 21 February 2014.
- (2) Minor Appeals include Appeals from Labour Tribunal, Appeals from Small Claims Tribunal, Appeals from Minor Employment Claims Adjudication Board and Miscellaneous Appeals.

16. As to whether targets should be set for the delivery of judgment, it could be noted from the figures in paragraph 15 that judges are expected to deliver judgments within a reasonable time, taking into account the complexity of the matter and other work commitment. It is not considered advisable to set

standard target times given the enormous variety in the nature and complexity of cases. Nonetheless, the Judiciary is fully aware of the need for the timely delivery of judgments and Court Leaders will continue to monitor the situation closely to ensure that judgments are delivered within a reasonable time."

Construction Works of West Kowloon Cultural District Project

8. **DR PRISCILLA LEUNG** (in Chinese): *President, at a subcommittee meeting of this Council on the 28th of last month, the Chief Secretary for Administration indicated that the West Kowloon Cultural District Authority (WKCD) had sufficient funds to cover the construction costs of the Batch 1 and Batch 2 facilities of the West Kowloon Cultural District (WKCD) project. However, owing to factors such as rising construction costs and that the construction of some facilities of the WKCD project could not commence as scheduled because of the delay of the project to construct the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL Project), the authorities had to comprehensively review the sources of funding and implementation timetable of the Batch 3 facilities (including the Great Theatre, Musical Theatre and Music Centre). In this connection, will the Government inform this Council:*

- (1) *whether it has assessed afresh the construction costs of various facilities of the WKCD project, taking into account factors such as the rising costs of construction and the anticipated inflation rate; if it has, of the details; if not, the reasons for that;*
- (2) *whether it has estimated the financial losses brought about by the delay of the XRL Project on the WKCD project; if it has, of the details; if not, the reasons for that; whether the authorities have reserved the right to claim losses from the MTR Corporation Limited (MTRCL), the party responsible for the XRL Project; if they have, of the details; if not, the reasons for that; and*
- (3) *as there are views that the delayed completion of the Batch 3 facilities of the WKCD project will affect the development of local arts, cultural and creative industries, whether the authorities have any plan to expeditiously confirm and announce the arrangement and timetable for implementation of the Batch 3 facilities of the WKCD project?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, the reply to the three parts of the question is as follows:

- (1) The WKCDA is working closely with the design consultants of the Xiqu Centre, M+, the Park (including the Freespace), the Arts Pavilion and the Lyric Theatre on the updated cost estimates, taking into account factors such as construction cost escalation and anticipated inflation rate. As regards the remaining venues, more reliable cost estimates will only be available near the time of tendering after finalization of the implementation programmes and completion of the detailed designs.
- (2) The area in WKCD being used as general works area for the XRL project was allocated to the Highways Department (HyD) and is being occupied by the MTRCL, as the HyD's entrusted agent for the implementation of the XRL project. The HyD will return this general works area in a progressive manner upon completion of the relevant XRL works. The works area supporting specifically the construction of the station box of the West Kowloon Terminus of the XRL, (including the WKCD enabling works to be erected thereon) is held by the MTRCL under a short-term tenancy issued by the Lands Department (LandsD) for a term up to 31 August 2015 and thereafter quarterly. Subject to site availability and WKCD's development programme, the WKCDA may apply to the LandsD for using the vacant area in WKCD for construction of its facilities. Under the above arrangement, there is no contractual agreement between the MTRCL and WKCDA on the handover dates of the above works areas. All along, the concerned government bureaux/departments have been in close communication with the MTRCL and WKCDA on the land matters in WKCD with a view to minimizing the impacts of the railway works on the programme and cost of the WKCD project.
- (3) The Chief Secretary for Administration, who is also the Chairman of the WKCDA Board, reiterated at the media session on 1 June 2014 that WKCD would be developed into an integrated arts and cultural district as planned. According to the views collected during the public engagement exercise and the experiences from a number of overseas arts and cultural district developments, the WKCD project

should be developed in an organic growth arrangement and in batches according to the actual situations. The WKCDA will complete Batch 1 facilities as soon as possible for early public enjoyment of the benefits brought by WKCD in respect of the development of arts, cultural and creative industries in Hong Kong. At the same time, the WKCDA will start the planning of Batch 2 facilities, gather views from the public and arts and culture sectors and review the implementation programme of Batch 3 facilities at a suitable juncture.

Profits Made and Fare Concessions Offered by MTR Corporation Limited

9. **MR MICHAEL TIEN** (in Chinese): *President, since 2010, the MTR Corporation Limited (MTRCL) has increased its fares for five consecutive years under the established mechanism. Although the MTRCL has offered various fare concessions, some members of the public are still dissatisfied that albeit having recorded sizeable profits, the MTRCL has increased its fares year after year, thereby increasing their burden. Regarding the profits made and the fare concessions offered by the MTRCL, will the Government inform this Council whether it knows, from 1 April 2010 to 31 March 2014:*

- (1) *the total underlying business profit of the MTRCL each year, with a tabulated breakdown of the profit arising from: (i) Hong Kong transport operations, (ii) Hong Kong station commercial business, (iii) Hong Kong property rental and management businesses, (iv) Hong Kong property developments, (v) Mainland China and international businesses, and (vi) other businesses (including Ngong Ping 360, railway consultancy and project management services);*
- (2) *the total number of shops in MTR stations, the average lease period of such shops, and the rental income of the MTRCL from the shops in each year (set out in table form); and*
- (3) *the projected amount of the fare concessions to be benefited by passengers each year when the MTRCL introduced them and the actual amount benefited by passengers each year, with a tabulated breakdown by its major fare promotions and concessions (including*

fare concession for children, Student Travel Scheme, fare concession for the elderly, Fare Saver discounts and half-fare concessions for persons with disabilities, and so on)?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Government and the MTRCL carry out review on the Fare Adjustment Mechanism (FAM) once every five years in accordance with the Operating Agreement signed by both parties in 2007. The last review was conducted in 2013, followed by announcement of the new FAM based on the review outcome in April that year. The new FAM has been in effect since June 2013.

Details of the new FAM and related arrangements were reported to the Legislative Council on 16 April 2013. In gist, the new FAM serves two major purposes. They are:

- (i) reviewing the original fare adjustment formula and expanding the scope of consideration under the mechanism by incorporating factors such as the MTRCL's profitability and service performance as well as public affordability; and
- (ii) relieving the fare burden on medium and long-distance passengers living in remote areas.

By introducing various measures and arrangements, the new FAM addresses the needs of different groups of passengers, including:

- (i) retaining the direct-drive FAM formula, but with the calculation of the Productivity Factor (PF) value being subject to a new, objective and transparent methodology. Under the calculation of the new formula, the PF value is increased from the original 0.1% to 0.6%. As such, the fare increase rate for 2014 is reduced from the original +4.1% to +3.6%;
- (ii) setting an affordability cap which links with the Median Monthly Household Income;
- (iii) introducing a "Profit Sharing Mechanism"; and

- (iv) putting in place a "Service Performance Arrangement" whereby a fine will be imposed for unsatisfactory performance.

The above four measures benefit all passengers. The sum collected from the "Profit Sharing Mechanism" and "Service Performance Arrangement" benefits passengers through the "10% Same-Day Second-Trip Discount" promotion.

Also, the MTRCL has launched three new types of tickets, namely the "MTR City Saver", "Tung Chung-Nam Cheong Monthly Pass Extra"⁽¹⁾ and "Monthly Pass Extra"⁽¹⁾ to provide fare concessions to frequent medium and long-distance passengers under the new arrangements.

The new FAM and related arrangements enable the MTRCL to maintain its financial prudence as a listed company while fulfilling its corporate social responsibility. Furthermore, the new FAM addresses reasonable aspirations of the community and allows the public to share the success of the MTRCL.

Our reply to the various parts of Mr Michael TIEN's question is as follows:

- (1) According to the information provided by the MTRCL, details on its underlying business profit from 2010 to 2013 (the MTRCL's financial year is from 1 January to 31 December) are set out in Annex I.

The MTRCL's interim results for 2014, which are yet to be announced, are commercial and price-sensitive information for the time being. As such, the MTRCL is unable to provide details on its underlying business profit from 1 January 2014 up till the present moment.

- (2) The MTRCL has been striving to provide a comfortable and convenient travelling environment for passengers. Shops are provided in MTR stations along rail lines to facilitate commuters.

According to the information provided by the MTRCL, the number of shops in MTR stations, the average lease period of these shops and the rental revenue are at Annex II. Due to the same reason set

(1) Holders of the original Monthly Pass have to pay full fare for the onward domestic journeys reaching stations not covered by the Pass. Monthly Pass Extra provides an additional 25% fare discount for these onward domestic journeys.

out in part (1) of the reply above, the MTRCL is unable to provide rental details of shops in MTR stations from 1 January 2014 up till the present moment.

- (3) The Government has been encouraging the MTRCL to review from time to time the effectiveness of existing fare concession schemes, and consider introducing new ones, having regard to the outcome of the FAM review and its financial prudence as a listed company.

Based on the information provided by the MTRCL, major fare promotions and concessions provided by the MTRCL from 2010 to 2013 and the amounts involved are set out in Annex III.

Regarding the 2014 new concession schemes, the MTRCL announced in May 2014 that in accordance with the outcome of the FAM review in April 2013, the MTRCL will launch new fare promotions and passengers can enjoy more savings. These include the new "MTR City Saver" launched on 8 June 2014. In addition, the "Monthly Pass Extra" scheme launched last year will continue and benefit medium and long-distance frequent MTR travellers.

The new FAM has also introduced the "Profit Sharing Mechanism" and "Service Performance Arrangement". Under the new arrangements, passengers will receive additional fare concessions of \$125 million and \$27.5 million respectively in 2014. The total fare concessions of \$152.5 million will be provided to passengers through the "10% Same-Day Second-Trip Discount" promotion for 3.5 months from 29 June 2014 to 15 October 2014.

Meanwhile, to celebrate the MTRCL's 35th anniversary of serving Hong Kong people, the MTRCL has decided to extend the "10% Same-Day Second-Trip Discount" promotion in the coming year from its original end date of 15 October 2014 to 30 April 2015. As a result, MTR passengers will enjoy this promotion for a total of 10 months. Together with the fare concessions under the "Profit Sharing Mechanism" and "Service Performance Arrangement", it is estimated that fare savings of about \$425 million will be enjoyed by passengers.

In addition, to address the relatively high train loading situation during the morning peak hours and to encourage passengers to use MTR service outside that period, the MTRCL will launch the "Early Bird Discount Promotion" Trial Programme for nine months from 1 September 2014 to 31 May 2015. Under the Trial Programme, passengers holding Adult Octopus will be able to enjoy a 25% fare discount when they exit from any of the 29 core urban stations between 7.15 am and 8.15 am from Mondays to Fridays (except public holidays).

It is estimated that the 10-month "10% Same-Day Second-Trip Discount", "MTR City Saver" and "Early Bird Discount Promotion" Trial Programme to be launched in the coming 12 months will bring fare savings of about \$500 million to passengers.

Annex I

Segmental Profit of the MTRCL's Underlying Businesses from 2010 to 2013
based on Information provided by the MTRCL

	<i>For the year ended 31 December (HK\$ million)</i>	<i>2010⁽¹⁾</i>	<i>2011⁽²⁾</i>	<i>2012</i>	<i>2013</i>
1.	Operating profit before interest and Hong Kong property development				
	(a) Hong Kong transport operations	2,877	2,701	2,881	2,716
	(b) Hong Kong station commercial businesses	2,441	2,799	2,969	3,668
	(c) Hong Kong property rental and management businesses	2,298	2,490	2,764	3,092
	(d) Mainland of China and international subsidiaries	241	381	520	704
	(e) Other businesses	111	23	(7)	86
	(f) Unallocated amount ⁽³⁾	<u>(216)</u>	<u>(123)</u>	<u>(323)</u>	<u>(486)</u>
		7,752	8,271	8,804	9,780
2.	Interest and finance charges	(1,248)	(932)	(879)	(732)
3.	Share of profit or loss of associates	139	297	456	158
4.	Non-controlling interests ⁽⁴⁾	(113)	(132)	(139)	(183)

	<i>For the year ended 31 December (HK\$ million)</i>	<i>2010⁽¹⁾</i>	<i>2011⁽²⁾</i>	<i>2012</i>	<i>2013</i>
5.	Tax on recurrent profit (that is, tax on business segments (item 1 (a) to (f)) and interest and finance charges (item 2))	<u>(1,133)</u>	<u>(1,261)</u>	<u>(1,328)</u>	<u>(1,586)</u>
6.	Post-tax recurrent profit	<u>5,397</u>	<u>6,243</u>	<u>6,914</u>	<u>7,437</u>
7.	Pre-tax Hong Kong property development profit	4,034	4,934	3,238	1,396
8.	Tax on Hong Kong property development profit	(785)	(720)	(534)	(233)
9.	Interests on Hong Kong property development profit	<u>11</u>	<u>11</u>	=	=
10.	Post-tax property development profit	<u>3,260</u>	<u>4,225</u>	<u>2,704</u>	<u>1,163</u>
	Underlying businesses profit	<u>8,657</u>	<u>10,468</u>	<u>9,618</u>	<u>8,600</u>

Notes:

- (1) In 2011, the MTRCL re-categorized certain business activities to align with its business development. As mentioned in the annual report for 2011, respective re-categorization is made in the comparison segmental information for 2010 to conform to 2011's presentation.
- (2) In 2012, the MTRCL re-categorized certain business activities again to align with its business development. As mentioned in the annual report for 2012, respective re-categorization is made in the comparison segmental information for 2011 to conform to 2012's presentation.
- (3) Unallocated amount refers to business development project studies.
- (4) Non-controlling interests represent the equity in a subsidiary not attributable directly or indirectly to the Corporation.

Annex II

Leasing Information of Shops in MTR Stations from 2010 to 2013
based on Information provided by the MTRCL

	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
Number of shops in MTR stations	1 254	1 294	1 331	1 336
Average lease period of shops	3 years			
Rental revenue of shops	\$1.716 billion	\$1.905 billion	\$2.142 billion	\$2.933 billion

Major Fare Promotions and Concessions provided by the MTRCL
from 2010 to 2013

<i>Major Fare Promotions and Concessions</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
	<i>Amount involved (\$ million)</i>			
Fare concession for children	170	189	176	223
Student Travel Scheme	610	645	679	686
Fare concession for the Elderly and \$2 fare promotion for the Elderly ⁽¹⁾	420	462	544	600
Fare concession for Persons with Disabilities	40	52	63	70
Monthly Pass (including "Monthly Pass Extra" launched in July 2013) and Day Pass	230	230	240	273
Free interchange offer and Light Rail Personalized Octopus Frequent User Bonus Scheme	145	147	160	171
Subtotal of Ongoing Fare Concessions	<u>1,615</u>	<u>1,725</u>	<u>1,862</u>	<u>2,023</u>
"Ride \$100 Get \$5 MTR Shop Coupon" promotion scheme (Promotion period: 14 June to 6 August 2010)	2	N/A	N/A	N/A
"Ride \$100 Get 1 Free" promotion scheme (Promotion period: 4 July to 30 December 2011)	N/A	65	172	
"Ride 10 Get 1 Free" promotion scheme (Promotion period: 18 June to 30 December 2012)		N/A		
"Free Child Travel on Weekends and Public Holidays" promotion scheme (Promotion period: 28 July to 30 December 2012) and "\$20 MTR Shops Coupons for Monthly Pass Purchase" promotion scheme (Promotion period: July to December 2012)			N/A	
"10% Same-Day Second-Trip Discount" promotion			N/A	
Fare Saver ⁽³⁾		85	89	96
Total of Major Fare Promotions and Concessions	<u>1,702</u>	<u>1,879</u>	<u>2,184</u>	<u>2,611</u>

Notes:

- (1) Under the "Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities" (the Scheme) implemented by the Government since 28 June 2012, elderly and eligible Persons with Disabilities enjoy the concessionary fare of \$2 per trip for MTR domestic services. As the MTRCL has been offering half fare concessions to the elderly and eligible Persons with Disabilities, the Government therefore pays for the difference between half fare and \$2 under the Scheme. But, the MTRCL still offers the \$2 fare concession to the elderly on Wednesdays, Saturdays and public holidays with its own resources and pays for the difference between half fare and \$2. The MTRCL also pays for the difference between half fare and \$2 for the elderly and eligible Persons with Disabilities travelling to and from Racecourse Station.

- (2) The "10% Same-Day Second-Trip Discount" promotion from 31 December 2012 to 30 June 2013 was included when the MTRCL launched the 2012 fare promotion schemes in June 2012.

When the MTRCL launched the 2013 fare promotions in June 2013, passengers enjoyed additional fare promotions of \$150 million from the "Profit Sharing Mechanism" and \$13 million from the "Service Performance Arrangement" in accordance with the new FAM. The total of \$163 million fare concessions were given back to passengers through the "10% Same-Day Second-Trip Discount" promotion for four months. In addition, as a result of an unspent sum of around \$200 million committed from the 2012 fare promotion schemes, this amount was subsequently provided to passengers through the "10% Same-Day Second-Trip Discount" promotion and hence the promotion period was further extended for five months. As such, the MTRCL launched the "10% Same-Day Second-Trip Discount" promotion for nine months from 1 July 2013 to 31 March 2014.

- (3) Fare Savers discounts are provided as commercial promotions and thus not included in ongoing fare concessions.

Waste Management and Recycling

10. **MR JEFFREY LAM** (in Chinese): *President, the Financial Secretary has indicated in his 2014-2015 Budget that in respect of the management of municipal solid waste, the Government will invest about \$30 billion in infrastructure for waste recycling and treatment. In addition, the Government has earmarked \$1 billion for the setting up of a Recycling Fund, which aims at promoting the sustainable development of the recycling industry. In this connection, will the Government inform this Council:*

- (1) of the projects in which the aforesaid \$30 billion will be invested; and the latest estimated expenditure for the various projects;*
- (2) according to the initial thinking of the Government, of the modus operandi of the Recycling Fund and the types of recyclers which may benefit from the Fund;*
- (3) whether it will consider providing concessions in rent or tax to local recyclers, with a view to increasing the proportion of waste recycled locally; if it will, of the details; if not, the reasons for that; and*
- (4) as quite a number of recyclers have relayed that they have difficulties in recruiting adequate manpower for those obnoxious duties such as waste recovery and separation, of the measures put in place by the Government to encourage more people to join the recycling industry?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (1) The Government will invest about \$30 billion in waste recycling and treatment facilities over the next few years. The estimates of expenditure are as follows:

<i>Project</i>	<i>Estimated expenditure (at money-of-the-day price) (\$ million)</i>
Southeast New Territories landfill extension	1,990
Northeast New Territories landfill extension	7,320
West New Territories landfill extension (consultants' fees and investigations)	40
Integrated waste management facilities, phase 1	18,250
Waste electrical and electronic equipment treatment and recycling facility	540
Organic waste treatment facilities, phase 1	1,530
Community green stations in the 18 districts	400
Total	30,070

- (2) The Steering Committee to Promote the Sustainable Development of the Recycling Industry (the Steering Committee), chaired by the Chief Secretary for Administration, has studied the operational framework of the Recycling Fund and solicited views from stakeholders in the process. The key objective of the Fund will be to facilitate the upgrading of the operational capabilities and efficiency of the recycling industry for sustainable development in order to achieve the policy objectives of waste reduction as stated in the Hong Kong Blueprint for Sustainable Use of Resources 2013-2022. A detailed proposal on the operation of the Fund will be submitted to the Panel on Environmental Affairs of the Legislative Council in July 2014.
- (3) We have adopted a multi-pronged strategy in supporting the sustainable development of the recycling industry. The Government has been providing various forms of assistance to the industry. These include providing short-term tenancy sites for exclusive use by recyclers, developing the EcoPark in Tuen Mun to

promote higher value-added recycling processes through the provision of long-term land at affordable cost, and identifying suitable berths in Public Cargo Working Areas for exclusive use by the recyclers. To improve the quantity and quality of recyclables collected so as to improve the efficiency of recycling processes, we have launched various community mobilization and education programmes on the separation of waste at source. In addition, the provision of the various waste treatment facilities as set out in part (1) above in particular the waste electrical and electronic equipment treatment and recycling facility, organic waste treatment facilities and community green stations will help upgrade and develop the capabilities and business opportunities of the local recycling industry. We will also embark on a study on land requirement for supporting waste recycling industry with a view to developing a comprehensive policy which could meet the longer-term land requirements of the recycling industry. In addition to formulating the implementation strategies for the Recycling Fund, the Steering Committee will continue to keep in view the effective implementation of these measures and develop other measures as necessary to promote the sustainable development of the recycling trade.

- (4) The Government has maintained close liaison with the recycling trade on promoting training and development of the workforce for effective, safe and environmentally responsible recycling processes. Amongst the various measures being examined and planned, the Environmental Protection Department has been working in consultation with the Occupational Safety and Health Council on a proposal to develop a scheme for recyclers to enhance their safety standards and awareness of work safety measures. Under the proposed scheme, relevant training on safety, risk assessment and other technical support will be provided to practitioners in recycling operations. In parallel, Hong Kong Quality Assurance Agency is exploring with the trade the introduction of a registration scheme for recyclers, with a view to enhancing standards of practice in the industry. These initiatives and those mentioned in the replies above will contribute to improvement in the work environment and opportunities of the workforce in the recycling industry.

Loss of Sand in Public Beaches

11. **MISS ALICE MAK** (in Chinese): *President, it has been reported that loss of sand has occurred at a number of public beaches (including Cafeteria Old Beach, Golden Beach, Stanley Main Beach and Deep Water Bay Beach), some of which have to be closed temporarily. In this connection, will the Government inform this Council:*

- (1) *whether it conducted in the past five years any investigation into the quantities of sand lost from public beaches; if it did, of the details, and set out such quantities by year in tables of the same format as the table below;*

Year:

<i>Beach</i>	<i>Quantity of sand lost (tonnes)</i>

- (2) *whether it conducted in the past five years any study on the prevention of sand loss from public beaches; if it did, of the details, and set out by year in the table below the details and number of such studies as well as the manpower and expenses involved;*

<i>Year</i>	<i>Details of the studies</i>	<i>Number of studies</i>	<i>Manpower and expenses involved</i>
<i>2014</i>			
<i>2013</i>			
<i>2012</i>			
<i>2011</i>			
<i>2010</i>			

- (3) *whether it received in the past three years any enquiry or complaint from District Councils or members of the public about the loss of sand from public beaches; if it did, of the details, and set out the number of enquiries and complaints from various districts by year in tables of the same format as the table below;*

Year:

<i>District</i>	<i>Number of enquiries and complaints</i>

- (4) *whether it took the initiative to deploy, in the past three years, manpower to inspect the situation of sand loss from public beaches; if it did, of the details, and set out, by year in tables of the same format as the table below, the numbers of inspections of the beaches in various districts and the manpower involved; if not, whether the authorities have any plan to deploy staff to conduct regular inspections on the situation of sand loss from public beaches;*

Year:

<i>District</i>	<i>Number of beach inspections</i>	<i>Manpower involved</i>

- (5) *whether it took remedial measures in the past five years in respect of the public beaches which had suffered sand loss; if it did, of the details, and set out, by year in tables of the same format as the table below, the details and number of the remedial measures taken for those public beaches, as well as the manpower and expenses involved;*

Year:

<i>Beach</i>	<i>Details of the remedial measures</i>	<i>Number of remedial measures</i>	<i>Manpower and expenses involved</i>

- (6) *as it has been reported that the preventive and remedial works for sand loss, for example, replacement of sand layers, construction of retaining walls and groynes, carried out by the authorities at beaches like Cafeteria Old Beach and Golden Beach are ineffective, whether the authorities have formulated other preventive and remedial measures; if they have, of the details; if not, the reasons for that; and*

- (7) *as some experts have queried that the loss of sand at some public beaches is mainly attributable to the inappropriate design of the stormwater outfalls nearby, whether the authorities will inspect the stormwater outfalls at various public beaches and carry out improvement works?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, in normal circumstances, natural factors such as water currents, tides, waves and the geographical environment contribute to sand loss at beaches. For beaches which are more exposed to the wind, loss of sand is more apparent after typhoons or persistent rainstorms. Nevertheless, the sand washed away will normally be brought back to the beaches gradually by tidal action.

My reply to the respective parts of the question is as follows:

- (1) The Leisure and Cultural Services Department (LCSD) has not conducted any investigation into the quantities of sand lost from public beaches in the past five years.
- (2) Regarding the loss of sand, the LCSD has commissioned the Civil Engineering and Development Department (CEDD) to engage consultants to conduct two feasibility studies on beach improvement works. The details are as follows:
- (i) Beach Improvement Works at Stanley Main Beach, Deep Water Bay Beach, Golden Beach and Upper Cheung Sha Beach — Feasibility Study

The study started in 2008 and concluded in 2011 at a cost of about \$5.6 million.

- (ii) Improvement Works at Tong Fuk Beach, Butterfly Beach and Big Wave Bay Beach — Feasibility Study

The study started in 2009 and concluded in 2011 at a cost of about \$1.4 million.

- (3) The numbers of enquiries and complaints received by the LCSD in the past three years about the loss of sand from beaches are listed in the tables below:

Year: 2012

<i>District</i>	<i>Number of Enquiries and Complaints</i>
Tuen Mun	2
Islands	1

Year: 2013

<i>District</i>	<i>Number of Enquiries and Complaints</i>
N.A.	0

Year: 2014

<i>District</i>	<i>Number of Enquiries and Complaints</i>
Southern	4
Tuen Mun	7
Islands	1

- (4) Beach staff of the LCSD conduct inspections and monitor the flow of marine sand at beaches every day.
- (5) Details of the remedial measures taken in the past five years in respect of the beaches managed by the LCSD where sand loss occurred as a result of typhoons or rainstorms are set out below:

Year: 2009-2011

<i>Beach</i>	<i>Details of the Remedial Measures</i>	<i>Number of Remedial Measures</i>	<i>Manpower and Expenses Involved</i>
Golden Beach	Sand replenishment and construction of gabion walls and groynes*	1	The LCSD commissioned the CEDD to implement remedial measures at a cost of about \$7.2 million after Typhoon Hagupit hit Hong Kong in 2008

Year: 2009-2010

<i>Beach</i>	<i>Details of the Remedial Measures</i>	<i>Number of Remedial Measures</i>	<i>Manpower and Expenses Involved</i>
Upper Cheung Sha Beach	Sand replenishment and construction of groynes*	1	The LCSDD commissioned the CEDD to implement remedial measures at a cost of about \$7.7 million after Typhoon Hagupit hit Hong Kong in 2008
Stanley Main Beach	Sand replenishment*	1	The LCSDD commissioned the CEDD to implement remedial measures at a cost of about \$1.9 million after Typhoon Hagupit hit Hong Kong in 2008
Deep Water Bay Beach	Clearance of gravel and replenishment of sand*	1	The LCSDD commissioned the CEDD to implement remedial measures at a cost of about \$0.5 million after Typhoon Hagupit hit Hong Kong in 2008

Year: 2010

<i>Beach</i>	<i>Details of the Remedial Measures</i>	<i>Number of Remedial Measures</i>	<i>Manpower and Expenses Involved</i>
Shek O Beach	Sand levelling	1	Sand levelling was carried out by beach staff and no additional cost was incurred

Year: 2012-2013

<i>Beach</i>	<i>Details of the Remedial Measures</i>	<i>Number of Remedial Measures</i>	<i>Manpower and Expenses Involved</i>
Cafeteria Old Beach	Depositing four layers of geo-textile sand bags at both sides of the stormwater outfall on the beach to direct the flow of water into the sea	1	The LCSD commissioned the CEDD to implement remedial measures at a cost of about \$1.9 million

Year: 2014[#]

<i>Beach</i>	<i>Details of the Remedial Measures</i>	<i>Number of Remedial Measures</i>	<i>Manpower and Expenses Involved</i>
Repulse Bay Beach	Sand levelling	2	Sand levelling was carried out by a contractor at a cost of about \$99,000
Deep Water Bay Beach	Sand levelling	1	Sand levelling was carried out by beach staff and no additional cost was incurred
South Bay Beach	Sand levelling	1	Sand levelling was carried out by a contractor at a cost of about \$50,000
Stanley Main Beach	Sand levelling	1	Sand levelling was carried out by a contractor at a cost of about \$50,000
Shek O Beach	Sand levelling	1	Sand levelling was carried out by a contractor at a cost of about \$50,000

<i>Beach</i>	<i>Details of the Remedial Measures</i>	<i>Number of Remedial Measures</i>	<i>Manpower and Expenses Involved</i>
Hung Shing Yeh Beach	Sand levelling	1	A contractor will be engaged to carry out sand levelling works. The cost is yet to be finalized as the quotation exercise is now underway
Cafeteria Old Beach	Sand levelling at the stormwater outfall of the beach	1	Sand levelling was carried out by a contractor at a cost of about \$50,000

Notes:

* Short-term improvement measures recommended in the two study reports mentioned in part (2) above

All the works carried out in 2014 are small-scale sand levelling works

- (6) Owing to its geographic location, topographical features, water currents and waves, Golden Beach is prone to sand loss caused by waves. To tackle the problem, the LCSD implemented a series of short-term improvement measures in three phases between 2009 and 2011 on the recommendation of the consultants engaged by the works department. The measures include: (1) construction of temporary gabion walls in an area approximately 200 m to the south of the beach area to protect the trees on the beach; (2) construction of temporary groynes to mitigate the loss of sand; and (3) sand replenishment. These measures have reduced the impact of sand loss on the beach.

There is a stormwater drain at one end of Cafeteria Old Beach with an outfall leading to the sea via the beach. The LCSD found in earlier years that whenever there was persistent rain or typhoons, huge flows of rainwater from the upstream storm water drain would flood the outfall. Without proper conveyance, the water overflowed and caused sand loss from all over the beach. In view of this situation, the LCSD asked CEDD to lay geo-textile sand bags on the beach to direct the flow of water into the sea from the outfall.

Following the completion of the works in January 2013, the situation has initially improved and sand loss has only concentrated around the outfall whilst the number of areas affected in other parts of the beach has decreased.

The LCSD will continue to monitor the situation at Golden Beach and Cafeteria Old Beach and liaise with relevant departments to explore further possible improvement measures.

- (7) The LCSD has been monitoring the situation around the stormwater outfalls at various beaches. According to our observations, the loss of sand on most beaches is mainly attributable to typhoons, persistent rain or the geographical locations of the beaches rather than the designs of the nearby storm water outfalls.

Management of Turfs of Sports Grounds Under LCSD

12. **MR LEUNG CHE-CHEUNG** (in Chinese): *President, in July last year, an international friendly soccer match was held at the Hong Kong Stadium (the Stadium). As the turf of the Stadium was not in good condition, coupled with inclement weather at that time, the pitch became muddy soon after the match had started. The Government subsequently indicated that it would formulate short, medium and long-term measures to improve the quality of the turf of the Stadium. Regarding the management of turfs of sports grounds under the Leisure and Cultural Services Department (LCSD), will the Government inform this Council:*

- (1) *of the measures taken by LCSD since July last year for improving the quality of the turfs of the Stadium and other sports grounds as well as the effectiveness of such measures;*
- (2) *whether it has regularly inspected the quality of the turfs of the Stadium and other sports grounds since July last year; if it has, of the standards and results of the inspections; if not, the reasons for that;*
- (3) *of the current staff establishment within LCSD responsible for the management of the turfs of sports grounds; whether LCSD has, in recruiting experts in the management of turf pitches, set*

standardized requirements for candidates regarding the professional qualifications they must hold and their experience in managing turfs in sub-tropical regions; if it has not, of the reasons for that; and

- (4) *whether it will allocate more resources to improve the quality of turfs of the Stadium and other sports grounds; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (1) and (4)

In the past year, the Government had taken various measures to improve the Stadium and other natural turf football pitches. With regard to the Stadium, the LCSD set up an Expert Group on the Hong Kong Stadium Turf Pitch in August 2013 to provide expert advice on the measures to be adopted to enhance the quality of the Stadium turf pitch. Having studied the data on the current condition of the Stadium pitch and its expected usage, the Expert Group recommended that the entire pitch should be reconstructed, including re-designing and replacing the drainage and irrigation systems, and replacing the entire soil structure and the turf. The LCSD is conducting a study on specific technical issues relating to the reconstruction of the Stadium pitch. It is expected that the reconstruction project will commence in the second quarter of 2015.

On the other hand, the LCSD provided the Stadium with more manpower and horticultural machinery to carry out intensive and enhanced turf maintenance work. The contingency plans of the Stadium have also been reviewed to enhance the ability of venue staff to respond to emergencies concerning the turf pitch during major events.

The specific improvement measures being or to be implemented for other natural turf pitches managed by the LCSD include:

- (i) stepping up the turf maintenance programme by extending the annual re-turfing programme of natural turf pitches in summer

from six to eight weeks and the weekly maintenance programme from one day to one and a half days so as to allow more comprehensive maintenance works to be carried out and more time for turf recovery;

- (ii) setting up a specialized Sports Turf Management Section to provide professional expertise and technical support for the management and maintenance of the natural sports turf pitches;
- (iii) providing LCSD staff with more in-depth training on turf management and maintenance on an ongoing basis. In 2014-2015, the Department will organize five overseas training programmes and three local programmes for over 190 staff to enhance their expertise and knowledge in the field; and
- (iv) procuring more advanced equipment and tools such as turf growth lights and turf fans and to engage more skilled workers to enable the Department to carry out its sports turf maintenance works more effectively and efficiently.

The Government has earmarked around \$16 million in 2014-2015 for the implementation of the above improvement measures.

- (2) In accordance with the LCSD's established guidelines, the personnel responsible for the maintenance of the Stadium and other natural turf football pitches carry out routine turf maintenance work for different months and growing seasons. The work includes watering, mowing, weeding, pest and disease control, fertilizing, scarifying, aerating, topdressing and turf repair. Assessment and analysis are conducted against the standards set out in the LCSD's horticultural manuals and turf maintenance guidelines with reference to turf maintenance indicators to ensure that the turf is functional. Such indicators concern, *inter alia*, the composition, structure and nutrition of the soil, pests and diseases, and the chemical composition of water samples from the irrigation system. Previous assessment results show that the turf maintenance indicators of the Stadium and other natural turf football pitches generally meet the required standards.

- (3) At present, the 51 natural turf pitches provided by the LCSD are managed and maintained by some 400 staff, most of whom have undertaken relevant training or work experience. They carry out routine turf maintenance work in accordance with the relevant guidelines and operational manuals of the Department.

The LCSD set up a Sports Turf Management Section in May 2014 to strengthen the turf management of natural turf football pitches and provide more professional advice and technical support for the natural turf pitches (including the Stadium) managed by the Department. The Section will be led by a section head, who is required to be experienced in managing major turf stadiums with at least a recognized diploma in sports turf management. The holder of the post must also have ample knowledge of and proven operational experience in the common turf grass species used for natural turf pitches in the tropical or sub-tropical region.

Antiquities and Monuments Excavated from Works Site of MTR Shatin to Central Link

13. **MR CHRISTOPHER CHUNG** (in Chinese): *President, a large quantity of antiquities and monuments, traceable to the Song Dynasty, were earlier excavated from the works site of the To Kwa Wan Station on the MTR Shatin to Central Link (SCL). Some members of the Antiquities Advisory Board (AAB), historians and members of the education sector have pointed out that such antiquities and monuments are of greater archaeological significance than the Lei Cheng Uk Han Tomb that was uncovered in the 1950s. In this connection, will the Government inform this Council:*

- (1) *whether it has grasped the quantity of the antiquities and monuments excavated from the aforesaid works site, as well as the dynasties from which they are dated and their types; if so, of the details and set out such information in table form; if not, whether the archaeologists engaged by the MTR Corporation Limited (MTRCL) to carry out the excavation work have regularly reported the progress to the Government or AAB;*
- (2) *whether it has already set the deadline for completing the archaeological work at the end of September this year; if it has not,*

whether it has set a deadline for the archaeological work (if so, of the deadline); if it has set the deadline at the end of September this year, whether the construction works of SCL will resume in the event that the archaeological work has yet to complete on expiry of the deadline;

- (3) as there are views that the current practice of MTRCL to appoint experts on its own to carry out archaeological work in the aforesaid works site is open to question because MTRCL, under the pressure to complete the project as scheduled, may damage the monuments out of hastiness, whether the authorities will request MTRCL to invite local archaeologists, historians, and experts from the Leisure and Cultural Services Department to join the excavation work, so as to protect the monuments properly;*
- (4) whether it will expeditiously consult independent experts or conduct a public consultation to decide on matters such as whether to preserve in-situ the monuments uncovered at the works site of SCL, as well as whether realignment of SCL is required; if it will not, of the mechanism for formulating preservation proposals; and*
- (5) as some historians have pointed out that the said archaeological work is significant for understanding the history of Hong Kong, whether it will consider setting up an expert committee upon completion of the relevant excavation work to carry out follow-up studies, including compiling the history of Hong Kong afresh based on the relics excavated, so as to enhance Hong Kong people's understanding of the ancient Hong Kong, and to strengthen their sense of belonging to the Motherland?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to the five parts of Mr CHUNG's question is as follows:

- (1) and (3)

In conducting the environmental impact assessment (EIA) under the Environmental Impact Assessment Ordinance, the consultant appointed by the MTRCL has assessed the impact on cultural heritage arising from the SCL railway scheme, including the

potential existence of archaeological finds at the previous location of the Sacred Hill and its vicinity within the To Kwa Wan Station area. The EIA report for the SCL therefore recommended that an archaeological survey-cum-excavation⁽¹⁾ be carried out at a specified area prior to the commencement of the construction works of the To Kwa Wan Station. After consultation with the Advisory Council on the Environment and making available the EIA Report for public inspection and comments, the EIA Report for the SCL was approved by the Director of Environmental Protection in February 2012.

The archaeological survey-cum-excavation within the construction site of the To Kwa Wan Station area was carried out by an archaeologist engaged by the SCL contractor. Based on the statutory requirements, the archaeologist should be scientifically trained and experienced; has sufficient staff and financial resources or other resources; and has the ability to conduct or arrange for a proper scientific study of any antiquities discovered as a result of the excavation and search. Under the close supervision of the Antiquities and Monuments Office (AMO), the field works commenced in November 2012 (that is, in the east of the construction site of the To Kwa Wan Station). A square-shaped stone well dated to Song Dynasty, which is of very high archaeological value, was discovered at this location. Having consulted the views from the AAB, it is decided to preserve the stone well *in-situ* because the condition of the stone well is intact and it can reflect the traces of people's living in the past. The Government has changed the alignment of the proposed carriageway of Road L9 of the Stage 5 Infrastructure Works in the Kai Tak Development Area, so as to divert the carriageway from the location of the well to facilitate its future display to the public. The other key findings include scattered ceramic sherds, coins and remnants of archaeological features dated from Song-Yuan Dynasties and recent

- (1) Archaeological survey-cum-excavation is commonly conducted before construction within a specified area with archaeological potential. The archaeological survey is to define the precise horizontal extent and the nature of the archaeological deposits while the excavation is applied to this confined area to retrieve the archaeological data completely. The archaeologist needs to submit a proposal of the archaeological work to the Antiquities and Monuments Office (AMO), including the method and the procedure of the archaeological excavation. With the approval of the AMO and support of the AAB, the Antiquities Authority (that is, the Secretary for Development) will issue a licence to the applicant in carrying out the archaeological work in accordance with the proposal of the archaeological work and under the close monitoring of the AMO.

epoch. These archaeological finds have been retrieved to facilitate further excavation to deeper levels in search for other cultural relics and for better understanding of their archaeological significance after detailed recording, including photograph taking and drawing of the archaeological findings as well as making measurements for future research work by the archaeologist. Regarding the movable artefacts such as ceramic sherds and coins, they will be handed over to the Central Archaeological Repository of the AMO for safekeeping after the archaeologist has completed his study and processing. Finds of special archaeological value will be arranged for display in suitable venues in future. The excavation at this work area has reached the sterile layer, 2.3 m to 4.8 m below ground level. The archaeological fieldworks were completed in December 2013.

In relation to the above archaeological survey-cum-excavation, the archaeologist has submitted an interim report to the AMO. The AMO has also been keeping the AAB informed of the archaeological work through reports⁽²⁾. All the related documents are available for public viewing at AMO's website. The archaeologist is continuing with the study and analysis of the relevant archaeological finds, and is preparing the final report. The final report is expected to be submitted to the AMO by the end of this year. The SCL contractor has resumed the construction works in phases within the first archaeological work area where the archaeological survey-cum-excavation was completed.

Besides, when the SCL contractor was carrying out piling works at the launching shaft location for tunnel boring machines (that is, in the west of the construction site of To Kwa Wan Station), over 500 coins dated to Song Dynasty were found. The archaeologist employed by the SCL contractor then immediately reported the discovery to AMO. At the request and close supervision of AMO,

- (2) The AMO issued four briefs (in December 2012, March, September and November 2013) to report to the AAB on the archaeological survey-cum-excavation conducted by the archaeological expert. The AMO also arranged a site visit for the AAB members on 27 November 2013 regarding the archaeological finds. At the AAB meeting on 4 December 2014, the AAB discussed the preservation arrangement and provided views on the future interpretation of the archaeological discoveries. In addition, the AMO subsequently issued two briefs in April and May 2014 to report to the AAB on the work progress in the second archaeological work area and arranged a site visit for the AAB members on 2 May 2014.

an archaeological watching brief (AWB)⁽³⁾ at the launching shaft area (that is, the second archaeological work area) commenced in December 2013. At the moment, the archaeological fieldworks at the second archaeological work area were completed, except for that in the T1 Area which is of about 400 sq m at the south-west corner of the second archaeological work area. The excavation at the rest of the second archaeological work area has reached the sterile layer, which is about 2.6 m to 4.5 m below ground level, and the archaeological fieldworks were completed.

Another square-shaped stone well dated to Song Dynasty and stone building remnants were discovered at the T1 Area, but this stone well was not as intact when compared with the previously discovered stone well. At this stage, MTRCL has implemented suitable measures to protect the stone well and the stone building remnants. Besides, two pits were also found within the T1 Area and its vicinity. The nature and function of the pits have to be confirmed after further investigation. At present, other than the T1 Area of the second archaeological work area, the archaeological work has been extended to the third archaeological work area upon the request of AMO (that is, the area between the two archaeological work areas in the east and west, as well as the areas to the west and southwest of the T1 Area). Under the close supervision of AMO, the archaeologist commenced the archaeological work in April 2014 in areas within the third archaeological work area. MTRCL has suspended the construction works in this zone in order not to affect the archaeological work.

At present, the most important task is to complete the archaeological work as soon as possible, so as to retrieve more information and have a more comprehensive and in depth analysis on the heritage value of the archaeological remnants and finds. The AMO would

- (3) AWB refers to any archaeological work conducted during the construction phase of development project. AWB allows archaeological methods to be applied by archaeologists once any archaeological remains are identified in the course of the earth movement works of the development project. A proposal is required to specify the aim, method, and potential mitigation measures for the AWB. AWB could turn into an archaeological excavation if significant archaeological remains are discovered. Once the AWB commences, the archaeologist needs to report any archaeological remains discovered to the AMO. The AMO will then report the related discoveries to the AAB. The AMO will also regularly oversee the related archaeological work.

closely monitor the archaeological work during this period in order to ensure that archaeological relics would be properly protected. If there is significant archaeological findings, the archaeologist would immediately report them to the AMO. Where necessary, the AMO would invite other experts to provide advice on the findings. Such practice is in line with the current practices on archaeological work.

(2) and (4)

Since the archaeological work within the area has not been completed, information of the remnants of human settlements dating back to the Song-Yuan period there is still incomplete at this stage. We, however, believe that when archaeological work is completed in the third quarter of this year, we can gather more data on the archaeological site for further study and analysis, so as to formulate appropriate preservation proposals and measures for the archaeological remains (including the stone well discovered at a later stage) at the site. By then, we will consult the AAB before a more comprehensive and concrete conclusion is drawn.

The Transport and Housing Bureau has been paying close attention to the archaeological discovery and making the best arrangement in terms of construction; the MTRCL has suspended the construction works in the area where the archaeological work is ongoing, except for those relating to the archaeological excavation. As regards the area where the archaeological work was completed, the MTRCL may resume the works gradually.

(5) Archaeological remains suggest that Hong Kong was inhabited by early settlers around 4 000 years ago. According to Professor TANG Chung of the Department of History of The Chinese University of Hong Kong, archaeological remains of the Song-Yuan period can be found at various sites in Hong Kong. This is not the first time evidence of human settlement in Hong Kong of the Song-Yuan period was found.

As mentioned above, information on the overall condition and extent of the remnants of human settlement of the Song-Yuan period is incomplete as the archaeological work is still ongoing. We believe

that when archaeological work is completed in the third quarter of this year, we can gather more data on the archaeological site for further study and analysis, so as to draw a more comprehensive and concrete conclusion regarding the extent and condition of the archaeological remains as well as their overall heritage value, and to formulate appropriate preservation proposals and measures.

Processing of Torture Claims

14. **MR TAM YIU-CHUNG** (in Chinese): *President, it has recently been reported by some media that the number of torture claim cases received by the Immigration Department (ImmD) is rising, but only very few of such cases have been substantiated after screening. There are views that the continuous increase in the number of torture claim cases has not only consumed public money, but also given rise to problems such as claimants engaging in illegal employment and criminal activities during their stay in Hong Kong. In this connection, will the Government inform this Council:*

- (1) *of the time taken and expenditure incurred (including the expenditure for processing appeals lodged upon rejection of claims) on average in processing a torture claim by the authorities in the past three years; and the longest time taken for processing a torture claim and the expenditure on that case; and*
- (2) *whether the authorities have studied ways to expedite the processing of torture claim cases and strengthen the immigration control system to reduce the impact of the rising number of torture claims on the Hong Kong community; if they have studied, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Chinese): President, Article 3(1) of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, applied to Hong Kong since 1992, provides that "no State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". In June 2004, the Court of Final Appeal (CFA) ruled that

"high standards of fairness" must be demanded in the making of such determination. In view of the ruling by the Court of First Instance of the High Court in *FB & Ors v. Director of Immigration* [2009] 2 HKLRD 346, the ImmD introduced an enhanced administrative screening mechanism for torture claims in December 2009 to ensure that the procedures would meet the high standards of fairness required by law. Subsequently, the Legislative Council passed amendments to the Immigration Ordinance (Cap. 115) (the Ordinance) in July 2012 to provide for a statutory framework, which commenced operation in December 2012, to underpin the screening mechanism for torture claims.

Separately, following the CFA's rulings in two other judicial review cases, namely *Ubamaka Edward Wilson v. Secretary for Security* [2013] 2 HKC 75 and *C & Ors v. Director of Immigration* [2013] 4 HKC 563 in December 2012 and March 2013 respectively, the Administration commenced operating a unified screening mechanism (USM) in March 2014 to screen non-refoulement claims lodged by persons who do not have the right to enter and remain in Hong Kong against their removal from Hong Kong to another country on applicable grounds (other than torture under the Ordinance), including risks of torture or cruel, inhuman or degrading treatment or punishment (CIDTP) under Article 3 of section 8 of the Hong Kong Bill of Rights Ordinance (Cap. 383) and persecution with reference to the non-refoulement principle under Article 33 of the 1951 Convention relating to the Status of Refugees. Procedures of the USM follow those of the statutory screening mechanism for torture claims, which were enacted following extensive consultation with stakeholders and scrutiny by the Legislative Council, to ensure that they meet the high standards of fairness required by law.

My reply to the various parts of the question is as follows:

- (1) The ImmD must screen claims under procedures that meet the high standards of fairness required by law. Before the USM, most torture claims (nearly 70%) could be determined within five months after the commencement of the screening process under the statutory screening procedures, including submission of claim forms and supporting documents by the torture claimants, arranging and conducting screening interviews, and then making of determination by case officers of the ImmD. Claimants aggrieved by the ImmD's decision may lodge an appeal with the impartial statutory Torture

Claims Appeal Board (TCAB) within 14 days. The TCAB requires three months on average to determine an appeal (longer if an oral hearing is required).

However, the time required to screen a claim depends on whether the claimant is co-operative in providing the relevant grounds and documents. The processing time needed would be longer if the claimant does not co-operate (for example, failing to contact his assigned duty lawyer, failing to attend scheduled interviews without reasonable excuse, failing to submit further supporting documents and evidences after seeking prolonged time extension, and so on). Among torture claims determined by the ImmD since the introduction of the enhanced administrative screening mechanism, the longest time taken to complete the screening process is 46 months. (According to the ImmD's record, the concerned claimant submitted the claim form almost 13 months after the commencement of the screening process, during which he sought to extend the deadline six times on various grounds such as supporting documents pending, requesting translation, and requesting access to his own personal data, and so on. During the seven months after his claim form was submitted, his legal representative challenged the procedure of the enhanced administrative screening mechanism on different various grounds, and the ImmD was required to address these challenges after seeking legal advice. Within the next 20 months, the ImmD arranged for screening interviews 15 times (out of which the claimant was absent due to sickness for three times, and the screening interview could not be conducted because his legal representative was unavailable to attend for eight other times). In the five months after the last interview was completed, the claimant repeatedly requested the ImmD to withhold its determination so as to allow him more time to submit additional supporting documents. After his last such request was rejected, the ImmD determined the claim within three weeks.) For claims screened under the statutory screening mechanism which commenced in December 2012, the situation has improved — the longest time taken to complete the screening process of a claim is 13 months. (According to the ImmD's record, the concerned claimant submitted the torture claim form within a month after the commencement of the screening

process. In the following 12 months, the ImmD arranged screening interviews nine times, out of which the legal representative was unavailable to attend for five times, and the screening interview could not be conducted for three other times because the claimant had absconded (re-arrested subsequently), absent due to sickness and that the interpreter was absent. After successfully completing the interview, the ImmD determined the claim in seven days). The procedures of the USM follow those of the statutory screening mechanism and should be effective in screening non-refoulement claims while ensuring that high standards of fairness are met.

Under the USM, the ImmD is required to take into account, in addition to torture under the Ordinance, other applicable grounds including CIDTP and persecution risks in screening each non-refoulement claim in a manner that meets the high standards of fairness required by law. Generally speaking, as the ImmD will screen all applicable grounds in one go, the screening and removal process should become more effective by preventing claimants from lodging sequential claims on different grounds to protract their presence in Hong Kong.

The Administration's expenditure on screening of claims for the past three years is set out in Annex.

- (2) After the USM has been implemented for a period of time, the Administration will consider how to improve and expedite the screening procedures while maintaining the high standards of fairness, taking into account operational experience and overseas practices. Further, as requested by the Duty Lawyer Service (DLS), the ImmD would continue to commence the screening process for eight claims every working day upon commencement of the USM. The ImmD estimates that 1 500 determinations can be made within the first year of the USM's operation (that is, the 2014-2015 financial year). The Administration will discuss with the DLS on increasing the daily number of case referrals so as to expedite the progress of screening.

Expenditure for the screening of torture/non-refoulement claims

The expenditure and estimated expenditure for the screening of torture and non-refoulement claims for the past three years and this year are as follows:

<i>Financial Year</i>	<i>Determinations by the ImmD</i>	<i>Administration's Staff Cost (\$ million)</i>	<i>Publicly-funded Legal Assistance (\$ million)</i>	<i>Humanitarian Assistance (\$ million)</i>
2011-2012	1 208	135	37	143
2012-2013	1 505	144	58	191
2013-2014 (revised estimate)	1 640	153	90	204
2014-2015 (estimate)	1 500	185	90	221

Measures to Promote Hong Kong's International Arbitration Services

15. **MR DENNIS KWOK:** *President, in his 2014 Policy Address, the Chief Executive said that "[t]he Government will continue to actively promote Hong Kong's legal and dispute resolution services to enhance our status as a centre for international legal and dispute resolution services in the Asia-Pacific Region". Also, in reply to the questions raised by Members of this Council on the Estimates of Expenditure 2014-2015, the Government indicated that an Advisory Committee on Promotion of Arbitration (the Advisory Committee) would soon be established, which will advise on and co-ordinate ongoing and new initiatives for the promotion of Hong Kong's arbitration services in the Asia Pacific Region. On the other hand, Hong Kong has recently lost out to Sydney in the bid for the right to host the 2018 Congress of the International Council for Commercial Arbitration (ICCA Congress). In this connection, will the Government inform this Council:*

- (1) *whether it has assessed the reasons for Hong Kong losing the bid for hosting the aforesaid ICCA Congress; if it has, of the findings and details of the assessment, as well as the follow-up actions; if not, the reasons for that;*

- (2) *whether it has studied if there will be other international arbitration conferences, similar to the aforesaid ICCA Congress, in the near future that Hong Kong may bid for the right to host them; if it has, of the findings and details of the study; if not, the reasons for that;*
- (3) *of the latest progress of the establishment of the Advisory Committee, including when it will be established as well as its proposed terms of reference, composition and work plans;*
- (4) *whether it has plans to invite international legal bodies and arbitration institutions, such as the London Court of International Arbitration, Arbitration Institute of the Stockholm Chamber of Commerce and the Permanent Court of Arbitration in Hague, to set up regional offices in Hong Kong; if it does, of the details of such plans; if not, the reasons for that; and*
- (5) *whether it has plans to assist the Hong Kong International Arbitration Centre (HKIAC) in gaining recognition as a formal arbitration commission on the Mainland, and/or obtaining other relevant legal status on the Mainland, so as to enable the HKIAC to enter the Mainland arbitration field; if it does, of the details of such plans; if not, the reasons for that?*

SECRETARY FOR JUSTICE: President, the Hong Kong Special Administrative Region (HKSAR) Government has been making every possible effort to consolidate and enhance Hong Kong's status as a centre for international legal and dispute resolution services in the Asia Pacific Region, and will continue to do so. We will step up our promotional efforts, improve the legal framework for arbitration and mediation, and work closely together with all the relevant stakeholders.

Our replies to each of the five parts of the question are as follows:

- (1) The International Council for Commercial Arbitration (ICCA) is a worldwide organization devoted to promoting the use and improving the processes of arbitration, conciliation and other forms of resolving international commercial disputes. An ICCA Congress is held

every two years for the presentation and discussion of papers on different aspects of international dispute resolution. Hong Kong featured prominently, for example, during the recent ICCA Congress held in Miami in April 2014.

The HKIAC, with the full support of the HKSAR Government, had submitted its bid to host the 2018 ICCA Congress in Hong Kong. Despite the ICCA's decision to host the 2018 Congress in Sydney and we were not privy to the deliberation involved, we do not see any ground to doubt the competitiveness of Hong Kong as a leading centre for international legal and dispute resolution centre in the Asia Pacific Region.

Indeed, we understand from the HKIAC that the ICCA has resolved to hold one of its important events, namely, its Governing Board annual meeting, in Hong Kong in 2015. Such a decision represents a vote of confidence on the part of ICCA in the significant role played by Hong Kong as a centre for international arbitration. The annual meeting will provide Hong Kong with a valuable opportunity to showcase the best that the city could offer to leading arbitration practitioners and end-users of arbitration around the world.

- (2) As a leading centre for international legal and dispute resolution centre in the Asia Pacific Region, Hong Kong hosts important arbitration conferences and events from time to time.

In the near future, apart from the ICCA Governing Board annual meeting in 2015 (as mentioned in part (1) above), the Chartered Institute of Arbitrators based in London will be celebrating its Centennial in Hong Kong in March 2015. Based on information provided by the HKIAC, the International Federation of Commercial Arbitration Institutions will also host its annual meeting in Hong Kong in 2017.

The Government will, as always, render our support to the hosting of important arbitration conferences and events in Hong Kong which can showcase our strengths and enhance our competitiveness in the provision of arbitration services.

- (3) To step up the joint efforts between the Department of Justice and the legal/arbitration sector to foster the development and growth of arbitration in Hong Kong, the Government announced in the 2014 Policy Agenda that an Advisory Committee on Promotion of Arbitration will be established.

The Advisory Committee will be chaired by the Secretary for Justice and its members will be drawn from the legal profession, the arbitration sector (including arbitration institutions) as well as other related institutions. Preparation work is underway, and the membership as well as the terms of reference will be announced in due course.

- (4) The Department of Justice plays an active role in attracting world class arbitration organizations to establish offices or conduct arbitration in Hong Kong. At our request, the Central People's Government has commenced negotiation of a host country agreement with the Permanent Court of Arbitration with the aim of facilitating the conduct of dispute settlement proceedings in Hong Kong. This will help attract more investment arbitrations to be conducted in Hong Kong. Ever since the HKSAR Government expressed interest in the matter, the Central People's Government has been providing strong support in this matter.

In addition, the China Maritime Arbitration Commission (中國海事仲裁委員會) (CMAC) has also confirmed its in-principle agreement to set up a branch office in Hong Kong in the latter part of 2014. As in the case of China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center, this will be the first branch office of CMAC outside the Mainland.

To reinforce Hong Kong's status as an international arbitration hub, the Department of Justice will continue to engage in discussions with other reputable arbitration organizations and explore the feasibility of their establishing a presence in Hong Kong.

- (5) The HKIAC has been actively pursuing its initiatives to promote its work and business in the Mainland. This includes the possibility of

being the first arbitration institution from outside the Mainland to set up and administer arbitrations in the Mainland.

In this connection, the Department of Justice has been actively pursuing the proposal of allowing Hong Kong arbitration institutions to set up offices in the Mainland so as to provide arbitration services directly to Mainland enterprises.

The Department has also suggested to the relevant authorities in the Mainland that, if these proposals cannot be implemented on a nation-wide basis, consideration should be given to implementing them on a pilot-basis in areas such as Beijing and/or the Shanghai Free Trade Zone.

The Department will continue to collaborate closely with arbitral bodies and liaise with relevant Mainland authorities with a view to securing greater market access in the Mainland for Hong Kong arbitration institutions and practitioners.

Police Superintendent's Discretion Scheme

16. **DR CHIANG LAI-WAN** (in Chinese): *President, when a juvenile under the age of 18 has been arrested for having committed an offence, and there is sufficient evidence to charge him/her with the offence, the police may, other than bringing the case to the Juvenile Court/Court, exercise discretion by referring the case to a police officer of the rank of Superintendent or above to issue a caution (superintendent's caution) to the juvenile offender under the Police Superintendent's Discretion Scheme (PSDS). Regarding the statistics on and the effectiveness of superintendents' cautions, will the Government inform this Council:*

- (1) *of the number of juveniles issued with superintendents' cautions in each of the past 10 years, with a tabulated breakdown by type of cases;*

- (2) *of the number of juveniles in each of the past 10 years who recidivated within two years from being issued with superintendents' cautions, with a tabulated breakdown by type of cases;*
- (3) *of the current measures in place to assist juveniles who were issued with superintendents' cautions in their rehabilitation with a view to reducing their recidivism; and*
- (4) *as some juveniles have been issued with superintendents' cautions for more than once, whether the authorities will review the effectiveness of the existing policy of superintendents' cautions in assisting juveniles in rehabilitation; if they will, of the details?*

SECRETARY FOR SECURITY (in Chinese): President,

(1) and (2)

The PSDS focuses on the rehabilitation of juveniles whose offences are minor in nature through corrective supervision rather than legal sanction. A police officer at the rank of Superintendent or above may, according to the Department of Justice's guidelines, exercise his discretion in considering the issue of a caution to a juvenile offender in place of criminal prosecution. In deliberating whether to administer a caution, a police officer will take into account a number of factors in accordance with the established procedures, such as whether the juvenile offender was under the age of 18 at the time of committing the offence; how serious is the nature of the crime; whether the offender voluntarily and unequivocally admits the offence; and whether the offender and his parents or guardian(s) agree(s) to the issue of the superintendent's caution. In addition to regular reports to the Fight Crime Committee (FCC) on the implementation of the PSDS, the police discuss matters involving inter-departmental co-operation with the FCC. Figures of juveniles issued with superintendent's cautions and the related offences in the past decade are at Annex A. The recidivism rate of such juveniles remained at a low level of less than 20% in the past decade. A breakdown of the number of repeated offenders by year and offence is at Annex B.

(3) and (4)

The police have been implementing measures on various fronts to facilitate the rehabilitation of juveniles issued with superintendent's cautions in an effort to reduce recidivism. The superintendents administering the cautions may, with the consent of parents or guardian(s) of the juvenile offenders, refer the offenders to the Juvenile Protection Sections of the Hong Kong Police Force for post-caution visits, as a means to further enhance the effectiveness of the PSDS. In addition, in assessing whether other follow-up services are needed, the police will consider referring the juveniles to the Social Welfare Department, the Education Bureau, non-governmental organizations running the Community Support Service Scheme, and so on, for follow-up, or convening a multi-disciplinary "Family Conference" to look into other rehabilitation schemes that are of benefit to the juvenile offenders, with a view to reducing recidivism.

As a matter of fact, prevention of juvenile crimes is of paramount importance. In addition to anti-crime patrols in places frequented by juveniles, the police have been strengthening their communication with juveniles through various channels for relaying anti-crime messages to them. Through School Liaison Officers, the police instil a sense of discipline and positive values in students, and, using the Junior Police Call as a platform, offer diversified training in physical fitness, discipline and team building for young people, as a means to boost their confidence and develop their leadership skills, self-discipline, sense of responsibility and the spirit of serving the community. Moreover, through the "Operation Breakthrough", which has been running for nearly two decades, experienced volunteers from the police plan and conduct various sports activities, in a bid to provide counselling to juveniles that require attention in their course of healthy and all-round development. The police shall continue to maintain communication with juveniles through various ways to prevent them from going astray.

Annex A

Figures of juveniles issued with superintendent's cautions and the related offences between 2004 and 2013

<i>Offences</i>	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Shop theft	1 377	1 227	994	923	960	987	852	786	472	327
Miscellaneous theft	695	764	709	708	520	477	440	441	337	221
Wounding/ serious assault	257	367	326	345	273	234	236	226	170	146
Other offences [^]	600	668	745	760	605	522	548	534	474	365
Total	2 929	3 026	2 774	2 736	2 358	2 220	2 076	1 987	1 453	1 059

Note:

[^] Other offences including criminal intimidation, criminal damage and loitering.

Annex B

Figures of repeated juvenile offenders after the issue of the superintendent's caution and the related offences between 2002 and 2011

<i>Offences[#]</i>	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Shop theft					112	113	118	122	109	71
Miscellaneous theft					137	148	108	111	93	64
Wounding/ serious assault					60	55	59	59	53	34
Other offences [^]					140	146	112	113	97	82
Total	592	589	437	569	449	462	397	405	352	251
Recidivism rate [*] (%)	17.7	19.6	14.9	18.8	16.2	16.9	16.8	18.2	17.0	12.6

Notes:

[#] There was no breakdown of repeated cases by offence committed by juveniles issued with superintendent's cautions prior to 2006.

- ^ Other offences including criminal intimidation, criminal damage and loitering.
- * Recidivism rate refers to the percentage of juveniles committing a second offence within two years after the issue of the superintendent's caution. Figures of repeated juvenile offenders as well as their recidivism rates in 2012 and 2013 are not available as the two-year period is not yet over.

Protection of Shark Species

17. **DR ELIZABETH QUAT:** *President, according to government statistics, some 5 400 metric tons of shark fin products were imported into Hong Kong in 2013. It is learnt that the practice of shark finning is a direct cause of the worldwide collapse of shark population and the near extinction of a number of shark species. Many countries have enacted legislation to ban the sale or possession of shark fins, and quite a number of businesses (such as airlines, shipping lines, eateries and hotels) have also disassociated from shark fin trade. In addition, the Government pledged last year to exclude shark fins, among others, in the menus of official entertainment functions "to demonstrate its commitment to the promotion of green living and sustainability". In this connection, will the Government inform this Council:*

- (1) *whether it will, for better regulation of the shark fin trade and improvement of its transparency, consider improving the existing Hong Kong Harmonized System (HKHS) codes used for classifying the goods for lodging import/export declarations in Hong Kong, including (i) following the coding practice used for bluefin tuna to identify the shark species that need to be tracked, (ii) deploying scientific identification methods (for example, DNA testing of randomly sampled shark fins for verification purposes), and (iii) collecting and publishing full statistics on Hong Kong's shark fin trade (including the species, volume and country of origin of the sharks involved); if it will not, of the reasons for that;*
- (2) *whether it will consider not consuming the fins of rays, which are used as substitutes for shark fins, at its official entertainment functions; if it will not, of the reasons for that; and*
- (3) *whether it will draw reference from the Convention on Biological Diversity (CBD) and the Biodiversity Strategy and Action Plan*

(BSAP) to take cross-boundary actions for the protection of endangered shark species; if it will not, of the reasons for that?

SECRETARY FOR THE ENVIRONMENT: President,

- (1) Hong Kong implements the HKHS for trade declaration purposes. The HKHS adopts the Harmonized Commodity Description and Coding System, which is designed by the World Customs Organization and is internationally practised with more refined classification for meeting Hong Kong's need. Regarding the shark fin trade, there are about 500 species of shark in the world and most of them can be freely traded internationally. Though there is only one shark fin-specific international harmonized code, Hong Kong has taken a step further to provide smaller categories to further classify shark fins based on whether they are dried, in brine or salted, or canned. Only a few shark species are regulated under the Protection of Endangered Species of Animals and Plants Ordinance (Cap. 586) (the Ordinance). It is not necessary for the Agriculture, Fisheries and Conservation Department (AFCD) to rely on HKHS for its enforcement of these species under the Ordinance.

In enforcing the regulation of trade in shark fin controlled under the Ordinance, the AFCD relies on physical inspection based on readily recognizable external features. DNA testing will be considered as a supplementary identification tool where necessary.

Detailed trade statistics of shark fin, including trade value, quantity, trade type (that is, re-exports, domestics exports and imports) and country, breaking down by relevant HKHS codes are obtainable from the Census and Statistics Department.

- (2) The Government is committed to the promotion of green living. To take the lead and set a good example that goes beyond the minimum expectation as laid down in the law, the Government has set internal guidelines on adopting conservation-conscious menus in official entertainment functions.

It is not possible to list out all food items of concern exhaustively as circumstances change and for instance the place of origin, means of

breeding, different management practices, and so on, may present different bearings even for the same food item. As a start and to serve as an example of public education and awareness raising on sustainability, shark fin, bluefin tuna and black moss are not included in the menus of official entertainment functions. We would keep in view the local and international trend on green living in line with sustainability-conscious lifestyle and update the list of items from time to time.

- (3) The Government is formulating a BSAP based on principles of the CBD and taking into account local needs and priorities. An exercise to raise public awareness on biodiversity conservation and to seek views on the formulation of the BSAP has been rolled out since 2013. One of the targets under the CBD is the prevention of the extinction of threatened species. In this regard, the Government is committed to protecting endangered species including the protected shark species through the Ordinance. The Ordinance is the local legislation which gives effect to an international convention called the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in Hong Kong and regulates the trade in endangered species. Through CITES and the Ordinance, Hong Kong is discharging its international responsibility on protection of wildlife species. The AFCD has been maintaining close collaboration with the Mainland authorities in protecting endangered species.

Protection of Employees' Personal Data

18. **MR KENNETH LEUNG** (in Chinese): *President, it has been reported that some employers collect employees' biometric information, such as fingerprints and genetic data derived from blood samples, for internal investigation or security purposes. The Office of the Privacy Commissioner for Personal Data, Hong Kong (OPCPD) has pointed out that such practices allegedly constitute improper collection of personal data and serious invasion of employees' privacy. There are comments that the Personal Data (Privacy) Ordinance (the Ordinance) (Cap. 486) has failed to effectively regulate employers' collection, holding, processing and use of employees' personal data,*

resulting in inadequate protection of employees' privacy. In this connection, will the Government inform this Council:

- (1) whether it knows the number of complaints received by the OPCPD in each of the past three years about improper collection of employees' personal data by employers, and the outcome of the handling of such cases by the OPCPD;*
- (2) given that the Government indicated in its Report on Public Consultation on Review of the Personal Data (Privacy) Ordinance published in October 2010 that it did not intend to subject sensitive personal data (particularly biometric information) to more stringent regulation, but proposed in the Report that the protection of such data be enhanced, of the details of the efforts made so far by the authorities and the OPCPD in promoting the protection of sensitive personal data;*
- (3) given that with technology advances, biometric systems, which capture physiological attributes of individuals, are increasingly used for identification and authentication purposes, whether the authorities and the OPCPD have plans to enact laws or draw up codes of practice/guidelines to step up the regulation of the collection and use of biometric information; if so, of the details; if not, the reasons for that; and*
- (4) whether it knows, in respect of some employers requiring their employees to undergo comprehensive pre-employment physical check-ups (including the collection of biometric information), if the OPCPD has taken any corresponding actions to protect employees' privacy and to ensure that the recruitment activities concerned are conducted without unreasonable and excessive collection of personal data, and that adequate protection of the personal data concerned is provided in the course of the collection, processing and storage of such data; if so, of the details and the effectiveness of such actions; if not, the reasons for that?*

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Chinese): President, reply to the different parts of the question is as follows:

- (1) The number of complaints received by the Office of the Privacy Commissioner for Personal Data (PCPD) in the past three years about improper collection of personal data of employees (including prospective, current and former employees) by employers, and the outcome of the handling of such cases by the PCPD are as follows:

	2011	2012	2013
No <i>prima facie</i> evidence	6	3	5
PCPD has no jurisdiction/anonymous complaints	10	8	8
Settled through conciliation	11	10	3
Complainants relay concern only/no response to the PCPD's inquiries	13	20	8
Insufficient evidence	7	9	9
Complaints withdrawn by complainants	9	3	3
Formal investigation:			
- Contravention of the requirements under the Ordinance	1	0	0
- No contravention	2	0	0
- Investigation curtailed	1 ⁽¹⁾	1 ⁽²⁾	1 ⁽²⁾
Being processed	0	0	1
Total	60	54	38

Notes:

- (1) The PCPD considered that the complainant and complainee could settle the dispute on their own and therefore decided not to intervene and curtailed the investigation.
- (2) As remedial measures were taken by the party being complained against during the investigation, the dispute was settled through conciliation and the PCPD curtailed the investigation.

(2) and (3)

In 2009-2010, the Administration conducted a comprehensive review of the Ordinance and consulted the public. One of the

issues included in the review and consultation was whether sensitive personal data should be subject to more stringent control. The outcome of the consultation showed that there were no mainstream views in the community on the coverage of sensitive personal data, the regulatory model or sanctions. Therefore, the Administration decided not to introduce more stringent regulation in this regard.

Notwithstanding the above, in order to promote awareness of personal data protection and enhance understanding of, and compliance with the Ordinance, the PCPD organizes on a regular basis professional workshops and public seminars, issues guidance notes and information leaflets as well as organizes other promotional and educational events. The PCPD also releases reports on investigations to deter malpractices and promote compliance.

On the handling of sensitive personal data such as biometric information, the PCPD has issued the "Guidance on Collection of Fingerprint Data" to provide data users who intend to collect fingerprint data with practical guidance. The Guidance also serves as reference for data users who collect other kinds of biometric information. The PCPD will continue to keep in view developments in biometric technologies and issue further guidance as and when necessary.

- (4) Pursuant to the Ordinance, the PCPD issued the "Code of Practice on Human Resource Management" to provide practical guidance on how to properly handle personal data in each phase of the employment process. According to the Code, an employer offering conditional employment to a candidate may collect personal data concerning the latter's health condition by means of a pre-employment medical examination provided that (i) such data directly relates to the inherent requirements of the job; (ii) the employment is conditional upon the passing of the medical examination; and (iii) the data is collected by means which are fair in the circumstances and the data collected is not excessive in relation to the purpose of collection.

Moreover, the PCPD organizes regular professional seminars on Data Protection in Human Resource Management for human resource practitioners to discuss with them how to properly handle employees' personal data and explain to them relevant codes of practices and guidelines issued by the PCPD so as to equip them with knowledge as to the proper ways of handling personal data and complying with the Ordinance.

So far the PCPD has not received any complaint relating to medical examination.

International Schools Operating in Vacant School Premises of Government

19. **DR KENNETH CHAN** (in Chinese): *President, in April last year, NAE Hong Kong Limited (NAE) was allocated vacant school premises in Lam Tin by the Education Bureau for setting up an international school. It has been reported that while the school sponsoring body and the international school concerned are institutions exempt from tax under section 88 of the Inland Revenue Ordinance (IRO) (Cap. 112), the parent company of NAE is currently seeking a public listing. In this connection, will the Government inform this Council:*

- (1) *whether the Education Bureau has rules or guidelines at present for regulating the financial management and use of funds of schools and their sponsoring bodies which are exempt from tax; if it does, of the details; if it has not, whether it will consider formulating such rules or guidelines; if it will do so, of the specific plans; if not, the reasons for that;*
- (2) *whether NAE has informed the Education Bureau of the public listing plan of its parent company; if it has not, whether the Education Bureau has assessed if NAE has breached the relevant rules or guidelines of Education Bureau; if the assessment outcome is in the affirmative, of the details and the follow-up actions taken by Education Bureau;*
- (3) *given that when granting the aforesaid school premises at nominal rent, the Government made the requirement that the international school operating on the premises and its sponsoring body must be*

institutions exempt from tax under section 88 of IRO, whether the Education Bureau will take measures to ensure that the international school and its sponsoring body continue to operate on a non-profit-making basis; if it will, of the details; if not, the reasons for that; and

- (4) *whether it has studied if the public listing plan of the parent company of NAE will affect the eligibility of NAE for tax exemption in Hong Kong; if the study outcome is in the affirmative, of the details; if the study outcome is in the negative, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President, under the prevailing policy, international schools and their school sponsoring bodies (SSBs) should be organizations exempt from tax under section 88 of the IRO (tax exemption status) when the Government officially allocates to them school premises or greenfield sites for operation of international schools. Our response to the four parts of the question raised by Dr Kenneth CHAN is as follows:

- (1) and (3)

It is a requirement for both the SSBs and the schools allocated vacant school premises or sites for international school development to acquire the tax exemption status, and to include in their Memorandum and Articles of Association (M&A) standard provisions to ensure that its income and property must be applied solely towards the promotion of objects of the association (one of which shall be to establish and maintain a non-profit-making school or schools), and that no portion of the income and property shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise howsoever to members of the association. In addition, the Education Bureau would enter into a Service Agreement with the SSB of the relevant international school. The Service Agreement stipulates that both the school and its SSB shall at all times during the terms of the Service Agreement be organizations exempt from tax under section 88 of the IRO. Furthermore, they are required to submit their audited accounts to the Education Bureau annually and to explain their financial position, if required. Should the SSB commit any material breach of the provisions of the Service

Agreement, the Bureau is entitled to terminate or not to renew the Agreement, and resume possession of the premises.

The international school to be operated at the vacant school premises in Lam Tin, namely the Nord Anglia International School, Hong Kong Limited (the School), and its SSB, Nord Anglia School (Hong Kong) Limited, are on the list of institutions and trust which are exempt from tax under section 88 of the IRO. The aforementioned provisions have been incorporated in their M&A and the relevant Service Agreement.

- (2) The SSB of the School did not mention the plan for Nord Anglia Education to launch an initial public offering (IPO) when it was allocated the school premises and when it entered into a Service Agreement with the Education Bureau. In December 2013, in response to media enquiries in relation to Nord Anglia Education's plan on IPO, we enquired, and Nord Anglia Education confirmed, that there was no plan to change the tax exemption status and the M&A of the School and its SSB. In February 2014, Nord Anglia Education informed us that it had submitted an application in relation to a potential IPO on the New York Stock Exchange, and reaffirmed that there would be no change to the tax exemption status and the M&A of the SSB and the School in Hong Kong.

- (4) Given that income and properties of the organization which was allocated school premises must be solely applied for furthering its objects stated in its M&A and not be distributed to its members, we consider that the listing of Nord Anglia Education on the New York Stock Exchange has no implication on the school to be operated at the allocated premises in Hong Kong (the School), its operation and its SSB. Through the Service Agreement framework, we would closely monitor the activities of the School and the SSB to ensure compliance with the requirements in the Service Agreement and M&A.

In addition, to protect public revenue, the Inland Revenue Department (IRD) will from time to time conduct reviews on tax-exempt entities under section 88 of the IRO. Having regard to the circumstances of each case and make reference to information obtained from various channels (such as newspapers, magazines,

Internet, and so on) the IRD will call for the relevant tax-exempt entity's accounts, annual reports, other relevant documents and information (including details of its activities held) to ascertain whether its objects and activities are in compliance with the tax exemption status under section 88 of the IRO. If there is evidence of irregularities, the IRD would request the entity to supply further information for considering whether its tax exemption status should be maintained or withdrawn.

Due to the secrecy provision in the IRO, the IRD is unable to divulge information of any tax cases to third parties or make comments on individual cases.

Illegal Football Betting and Assistance for Problem and Pathological Gamblers

20. **MR CHAN HAK-KAN** (in Chinese): *President, the Government established the Ping Wo Fund in 2003 to finance preventive and remedial measures to address gambling-related problems. Since matches of the World Cup Finals are ongoing at present, legal and illegal football betting activities may become even more active during this period. In this connection, will the Government inform this Council:*

- (1) *whether it knows the situation of crime syndicates' operation of illegal football betting through taking bets via the Internet, including the total amount of bets, in the past four years; whether it has assessed if such activities have become more rampant during this year's World Cup; if it has assessed, of the details; if not, the reasons for that; of the measures taken to step up efforts to combat such activities, as well as the effectiveness of such measures;*
- (2) *whether it knows the situation of crime syndicates' operation of illegal football betting through taking bets via channels other than the Internet (such as the telephone), including the total amount of bets, in the past four years; whether it has assessed if such activities have become more rampant during this year's World Cup; if it has assessed, of the details; if not, the reasons for that; of the measures taken to step up efforts to combat such activities, as well as the effectiveness of such measures;*

- (3) *whether it has assessed if there are connections between local crime syndicates and their counterparts outside Hong Kong (for example, in the Pearl River Delta); if it has assessed, of the details; whether it has joined hands with the law-enforcement agencies of other regions to combat the illegal operation of cross-boundary football betting; if it has, of the details; if not, the reasons for that;*
- (4) *whether it knows the number of problem and pathological gamblers who received in the past four years counselling, treatment and other support services offered by organizations financed by the Ping Wo Fund; the age profile of the recipients of assistance; whether the authorities have compiled statistics on recipients of assistance who had quitted gambling relapsing into the habit; if they have, of the findings; if not, the reasons for that;*
- (5) *of the financial position of the Ping Wo Fund since its establishment, including details on its income (including the fund injection by the authorities) and expenditure in each year; whether the authorities have conducted any review of the operation (including fund-injection matters) of the Fund; if they have; of the details; if not, the reasons for that; and*
- (6) *whether the authorities have any other measures, beside those financed by the Ping Wo Fund, to reduce public participation in illegal gambling and alleviate problems related to gambling; if they have; of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President, it is the Government's policy not to encourage gambling. We attach great importance to the prevention and alleviation of gambling-related problems and thus we have adopted a multi-pronged strategy which includes regulation, law enforcement, public education and provision of counselling and treatment services. We are particularly concerned about the possible increased incentives for gambling and related problems during the 2014 World Cup. To this end, the Home Affairs Bureau, the Hong Kong Police Force (HKPF) and the Ping Wo Fund have, in conjunction with major stakeholders, introduced specific measures in line with

the aforesaid strategy to prevent and address gambling-related problems. A reply to various parts of the question is given below.

(1) and (2)

In accordance with the Gambling Ordinance, save for authorized or licensed gambling activities, any person who engages in bookmaking or bets with a bookmaker for bets placed in Hong Kong commits an offence, regardless whether the bet is placed over the phone or through the Internet.

The HKPF has spared no effort in combating illegal football betting and has been monitoring such illegal activities for enforcement. Figures on police operations against illegal football betting over the past four years are as follows:

<i>Year</i>	<i>Number of successful operations</i>	<i>Number of persons arrested</i>	<i>Total value of bets seized (HK\$ million)</i>
2010	110	151	386
2011	38	54	165
2012	30	52	139
2013	32	63	225

Since mid-2013, the HKPF had launched an intelligence-led operation against a cross-boundary bookmaking syndicate. The HKPF co-operated with the Guangdong Provincial Public Security Bureau and the Shenzhen Municipal Public Security Bureau and took enforcement action on 8 June 2014 with arrests made in both Hong Kong and the Mainland concurrently. In Hong Kong, the Organized Crime and Triad Bureau, the Narcotics Bureau and the Commercial Crime Bureau mounted 22 raids during an operation code-named "FIRESWATTER" and arrested 26 persons suspected of bookmaking and handling the proceeds of crime. Cash seized amounted to HK\$11 million, and betting records with a value of about HK\$370 million seized as of now. On the same day, the Mainland police arrested three persons in Shenzhen and Dongguan,

with one of the arrested being a Hong Kong resident. The value of the betting records seized amounted to RMB\$320 million (or about HK\$400 million). The police forces of Hong Kong and the Mainland have disintegrated a large-scale cross-boundary bookmaking syndicate. The head of the syndicate and all his assistants, together with bookmakers who placed bets with the syndicate, were arrested.

- (3) During the World Cup, the HKPF will step up efforts to combat illegal gambling activities as appropriate. Targeting cross-boundary bookmaking activities in recent years, the HKPF has set up a Tripartite Working Group on Anti-Illegal Gambling with the police forces of the Mainland and Macao to strengthen co-operation, and the HKPF is also a member of the INTERPOL Asia-Pacific Expert Group on Organized Crime. Through these platforms, the HKPF works with law-enforcement agencies outside Hong Kong for intelligence exchange and joint operations. Joint enforcement operations were conducted during World Cup this year and as a result they had successfully cracked down two cases of cross-boundary illegal football betting involving illegal bets of over HK\$800 million.
- (4) The four counselling and treatment centres financed by the Ping Wo Fund provide telephone counselling, face-to-face counselling and other professional treatment to problem and pathological gamblers and their families/friends. A hotline (183 4633) is also provided by the Fund to handle enquiries from those seeking assistance and the public. The number of service recipients over the past four years is at Annex 1, the age profile of service recipients is at Annex 2, and the statistics of service recipients with relapse is at Annex 3.
- (5) The financial position of the Ping Wo Fund since its establishment, including its annual income and expenditure, is at Annex 4.

The Government has been providing subventions for social welfare services. In view of the concerns over gambling problems in the community, the Administration established the Ping Wo Fund in 2003 so as to finance preventive and remedial measures to address

gambling-related problems with donations from charitable organizations and the public. The Ping Wo Fund Advisory Committee (PWFAC) advises on the above measures and puts forward strategies for implementation by the Home Affairs Bureau. Since its establishment, the Fund receives annual donations and continues to allocate resources to fund counselling and treatment services as well as promoting public education programmes.

Apart from financing four counselling and treatment centres, the Fund commissioned independent institutions to conduct surveys and research on gambling-related issues since 2005. According to the findings of the survey on Hong Kong People's Participation in Gambling Activities conducted by The Hong Kong Polytechnic University in 2011, 98% of the respondents had heard of Government's publicity against excessive gambling, about 76% had heard of the gambling counselling hotline, about 50% had heard of the counselling and treatment centres, and over 60% had indicated that they would seek help from the centres if in need. Considering the need for enhancing the promotion of anti-gambling messages among young people, the Fund introduced the Ping Wo Fund Sponsorship Scheme and the Ping Wo Fund School Project Grants in 2009 and 2010 respectively, sponsoring a total of over 140 non-governmental organizations and schools for organizing activities so far. The Fund has reaped satisfactory results on various fronts of its work and has been able to allocate resources to meet service needs. We will continue to monitor the financial position and operation of the Fund and strengthen our co-operation with stakeholders for the prevention and alleviation of gambling-related problems.

- (6) The Home Affairs Bureau and the PWFAC work together on public education as well as counselling and treatment services as mentioned in part (5) above.

As far as regulation is concerned, the Government prohibits illegal gambling activities through legislation, including Internet and cross-boundary illegal gambling. Authorized gambling activities are also regulated: The Licensee (Hong Kong Jockey Club) is

required under the law to comply with the licensing conditions, particularly those on age restrictions for authorized betting activities. For example, the Licensee shall not accept requests from persons aged below 18 for opening betting accounts, entering off-course betting branches, placing bets or collecting dividends. Moreover, warnings against excessive gambling as well as information on counselling and treatment services shall be displayed at betting premises and betting websites.

In addition, the Home Affairs Bureau attaches great importance to publicity and public education. In response to the 2014 World Cup, the Home Affairs Bureau, the PWFAC, the HKPF, District Fight Crime Committees and more than 70 social services and education organizations have held 100 territory-wide and district-level activities under the largest-ever campaign to publicize the negative impact of gambling.

Annex 1

Total number of service recipients of the four counselling and treatment centres for problem and pathological gamblers funded by Ping Wo Fund (2010-2013)

<i>Year</i>	<i>Telephone counselling and general enquiry (Persons)</i>	<i>Face-to-face counselling and other professional treatment (Persons)</i>	<i>Total (Persons)</i>
2010	22 796	1 918	24 714
2011	20 458	2 095	22 553
2012	21 956	2 286	24 242
2013	13 694	1 989	15 683

Note:

The above figures of service recipients include those who received telephone counselling and/or face-to-face counselling and other professional treatment as well as their family members/friends, and members of the public who received information in response to their enquiries.

Annex 2

Age profile of service recipients with gambling problems of the four counselling and treatment centres for problem and pathological gamblers funded by Ping Wo Fund (2010-2013)

<i>Age</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>
18 or below	7	6	9	5
19 to 25	87	71	84	72
26 to 29	125	87	95	58
30 to 39	312	295	305	262
40 to 49	343	355	348	258
50 to 59	229	231	254	245
60 or above	65	82	69	74
No information	36	26	4	11
Total	1 204	1 153	1 168	985

Note:

The above figures only include service recipients with gambling problems, but not their family members/friends who received the services or other members of the public making enquiries as the latter would not be requested by the counselling and treatment centres to disclose their age unless deemed necessary.

Annex 3

Total number of service recipients experienced relapse of the four counselling and treatment centres for problem and pathological gamblers funded by Ping Wo Fund (2010-2013)

<i>Age</i>	<i>Number of persons</i>
2010	10
2011	35
2012	29
2013	58
Total	132

Annual income and expenditure of Ping Wo Fund
(from September 2003 upon its establishment to end 2013)

Year	<i>Income (including donations from charitable organizations and the public) (HK\$)</i>	<i>Expenditure (HK\$)</i>
2003	5,500,000	3,400,000
2004	11,000,000	11,660,000
2005	12,000,000	12,102,000
2006	12,000,000	8,425,000
2007	12,000,000	12,325,000
2008	12,750,000	9,400,000
2009	15,062,000	14,002,000
2010	16,000,000	15,435,000
2011	15,000,000	15,842,000
2012	15,000,005	13,596,000
2013	16,250,500	14,247,000
Total	142,562,505	130,434,000

Measures to Combat Employers Defaulting on Wage Payments

21. **MR LEUNG KWOK-HUNG** (in Chinese): *President, it has been reported that some former employees of We Channel, a web radio station (the station) formerly known as the Hong Kong New Power Media Limited (New Power), complained to the Labour Department (LD) on the 3rd of this month that the station had defaulted on payments for their wages of more than \$20,000. They also alleged that at the end of August last year, the operator of the station, who was the President of the Parents' Association of Hong Kong (PAHK) cum President of the Federation of Parent-Teacher Associations of Yau, Tsim and Mongkok Districts Limited, had arranged them to work for the police and Citizens Music Concert organized by the Hong Kong Retired Police Officers Betterment Association (RPOBA), but had not paid them the wages for such work. In this connection, will the Government inform this Council:*

- (1) *whether the Government provided any funding to PAHK and RPOBA in the past five years; if it did, of the projects it funded and the amounts of the funding involved;*
- (2) *of the number of persons who complained to LD in this month about the aforesaid station defaulting on wage payments; how LD has followed up such complaints, and whether it will help such persons to file claims with the Labour Tribunal for arrears of wages;*
- (3) *whether LD received any complaint in the past five years about New Power, PAHK or RPOBA defaulting on wage payments; if it did, of the details;*
- (4) *whether LD handles complaints about arrears of wages in different ways based on the backgrounds of the employers concerned; if it does, of the reasons for that;*
- (5) *whether it will step up efforts to clamp down on employers repeatedly defaulting on wage payments, so as to protect the interests of employees; if it will, of the details; if not, the reasons for that; and*
- (6) *whether it will consider raising the penalties for defaults on wage payments (for example, raising the maximum length of imprisonment), so as to increase the deterrent effect for the protection of employees' interests; if it will, of the implementation time; if not, the reasons for that, and whether the Government is condoning unscrupulous employers defaulting on wage payments?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, my reply to the question of Mr LEUNG Kwok-hung is set out below:

- (1) The Hong Kong Police Force (HKPF) provides subsidy from the Police Welfare Fund (PWF) to the four HKPF-recognized retiree associations, namely the Hong Kong Police Old Comrades' Association, the Royal Hong Kong Police Association, the Hong Kong Police Old Comrades' Association (Canada) and the HK Marine Police Retirees' Association.

The RPOBA is neither recognized by the HKPF nor subsidized by the PWF.

We are also not aware of any Government funding that has been provided to the PAHK.

- (2) In early June 2014, the Labour Relations Division (LRD) of LD received an employment claim from five claimants against the organization mentioned in this question. The claim involved disputes on whether wages were owed. A conciliation meeting has been arranged for the claimants and the party being claimed with a view to assisting them to understand their respective obligations and rights under the Employment Ordinance (EO) and the employment contracts. Through exploring the crux of the problem and direct dialogue, we will render assistance to both parties to identify a mutually acceptable settlement. If the parties fail to reach any settlement through conciliation we will, depending on the amount claimed and the number of claimants of the case, refer the claimants to the Labour Tribunal or the Minor Employment Claims Adjudication Board for adjudication.
- (3) In the past five years, the LD received two complaints against the New Power for wages offences. The LD had duly followed up on these complaints. No irregularity was detected in one of the cases while prosecution had been taken out in the other case. Two convicted summonses were successfully secured against New Power for wage offences.
- (4) The LD handles each and every wage complaint according to the same procedure. We will follow up and investigate all complaints received promptly. On receipt of an employment claim, LRD will offer conciliation service to the employee and employer concerned with a view to helping both parties resolve their dispute and fulfil their statutory and contractual obligations, irrespective of the background of the employee and the employer concerned. If LD detects any suspected wage offences under EO on the part of employers in the course of handling the employment claims, the concerned employees will be invited to provide further information and to act as prosecution witnesses. As and when there is sufficient

evidence, the LD will take out prosecution against those employers who wilfully defy the law.

- (5) To clamp down on employers evading their wage liabilities, the LD will continue to widely publicize its complaint hotline (2815 2200) to encourage prompt reporting of breaches of EO so that speedy action can be taken. The LD has also hired former police officers as contract investigation officers to reinforce its capacity in intelligence gathering and evidence collection. At the same time, labour inspectors will conduct inspections to workplaces of various industries to uncover suspected offences under EO. The LD will also strengthen its enforcement against wage offences through enforcement campaigns targeting at offence-prone trades and establishments to further protect employees' statutory entitlements. If the employer is a limited company, its director or responsible person may also be prosecuted together with the limited company should there be sufficient evidence, so as to enhance the effectiveness of combating wage offences.
- (6) Any employer, company director or responsible person who commits wage offences under EO is liable to a maximum fine of \$350,000 and imprisonment for three years. Such penalty is considered to be effective in deterring wage offenders. At present, the Government has no plan to introduce heavier penalty on wage offences. To protect employees' statutory entitlements, the LD will continue its multi-pronged strategy to strengthen its publicity and public education effort; to take out stringent enforcement action; and to adopt preventive measures to clamp down on employers evading their wage liabilities.

Renewal of Sound Broadcasting Licences

22. **MR CHARLES PETER MOK** (in Chinese): *President, the sound broadcasting licences (the licences) held by the Hong Kong Commercial Broadcasting Company Limited and Metro Broadcast Corporation Limited will expire on 25 August 2016. The Telecommunications Ordinance (Cap. 106) (TO) provides that applications for licence renewal must be submitted to the Communications Authority (the CA). The CA is required to submit its*

recommendations to the Chief Executive in Council on the renewal of the licences and the imposition of terms and conditions (such as the periods of validity of the licences), for consideration and decision by the latter. In this connection, will the Government inform this Council:

- (1) whether it knows the factors considered by the CA in deciding how recommendations should be made in respect of the aforesaid issue; where such factors include the licensees' past performance in providing broadcasting services, of the assessment criteria and methods to be adopted by the CA; whether the CA will engage a consultant to study the assessment criteria and methods that should be adopted; if the CA will, of the details and timetable, and whether the CA will make its recommendations in line with the contents of the consultancy report;*
- (2) whether it will expeditiously release the matters which Chief Executive in Council will take into account in exercising the discretion whether to grant a licence (other than those factors to be taken into account as specified in TO), so as to avoid the aforesaid two licensees facing an uncertain business environment;*
- (3) whether it has assessed the penetration rate of digital audio broadcasting (DAB) since it granted three sound broadcasting licences for the provision of DAB services in 2011; if it has, of the details; and*
- (4) whether it will encourage the aforesaid two licensees to develop DAB services by means such as imposing additional conditions for renewal of their licences; if it will, of the details; if not, the reasons for that?*

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

- (1) The existing analogue sound broadcasting licences (the Licences) held by the Hong Kong Commercial Broadcasting Company Limited and Metro Broadcast Corporation Limited will expire on 25 August 2016. According to the terms of the Licences, the two licensees

shall submit their applications for renewals of the Licences (the "Renewal Applications") to the CA not less than 24 months before the expiry date of the Licences (that is, on or before 25 August 2014). The CA has not yet received the Renewal Applications.

According to the TO, the CA, upon receipt of the Renewal Applications, shall submit recommendations to the Chief Executive in Council concerning the renewal of the Licences and the terms and conditions to be imposed not less than 15 months before the date for any renewal of the Licences (that is, on or before 25 May 2015) or such shorter period as the Chief Executive in Council may permit.

The CA will process the Renewal Applications in accordance with the relevant provisions of the TO and established procedures. As understood, in processing the Renewal Applications, the CA will consider the past performance of the licensees concerned in relation to their compliance with the statutory requirements, licence conditions and codes of practice, as well as the licensees' operational ability, financial capability, technical soundness and programming arrangements, and so on. The CA will also hold a public consultation and commission an agency to conduct an opinion survey to gauge public views on the performance of the licensees.

- (2) According to section 13E of the TO, the CA shall submit recommendations to the Chief Executive in Council concerning the renewal of the Licences and the terms and conditions to be imposed. Having considered the recommendations submitted, the Chief Executive in Council may renew the Licences subject to such terms and conditions as he may specify; or renew the Licences by granting new licences in substitution therefor, and in doing so, may impose such terms and conditions as he may specify; or refuse to renew the Licences. The Administration will process and consider the Renewal Applications, upon receipt, in accordance with the law and established procedures as appropriate in the prevailing circumstances.
- (3) The established position of the Government is that DAB services are a supplement, rather than a replacement of analogue broadcasting services. As DAB services have only been rolled out for a

relatively short period of time, we have therefore not conducted any assessment on the penetration rate of the service. This notwithstanding, since the issue of sound broadcasting licences for the provision of DAB services, the Government has closely monitored the implementation of DAB services and assessed its effectiveness, and noted that progress has been made in DAB services. The Administration will continue to promote DAB services through various means.

- (4) The Government has no plan at present to replace analogue sound broadcasting with DAB and has not considered imposing any conditions for renewal of the Licences to require analogue sound broadcasting licensees to develop DAB services.

BILLS

First Reading of Bills

PRESIDENT (in Cantonese): Bills: First Reading.

COPYRIGHT (AMENDMENT) BILL 2014

CLERK (in Cantonese): Copyright (Amendment) Bill 2014.

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

Second Reading of Bills

PRESIDENT (in Cantonese): Bills: Second Reading.

COPYRIGHT (AMENDMENT) BILL 2014

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I move the Second Reading of the Copyright (Amendment) Bill 2014 (the Bill).

In pace with the rapid development of the knowledge-based economy, the Government keeps the copyright law under regular review to ensure its effectiveness and that it keeps pace with the times, as well as with technological and overseas developments.

Since 2006, the Government has conducted rounds of public consultation on how to update Hong Kong's copyright regime in the digital environment. In 2011, we submitted the Copyright (Amendment) Bill 2011 (2011 Bill) to the Legislative Council to introduce provisions such as communication right, safe harbour, and so on, in order to face up to the challenges brought about by the development of the Internet.

Parody was not a subject that the 2011 Bill sought to address, but wide-ranging views and concerns were expressed in the community on this issue during the examination of the 2011 Bill in the Legislative Council. After thorough scrutiny, the Legislative Council Bills Committee supported the passage of the 2011 Bill, including making suitable amendments and in particular, it requested the Administration to consult the public on how to handle parody in Hong Kong's copyright regime. However, as the Legislative Council had to handle other more pressing business, the 2011 Bill did not resume the Second Reading debate and was lapsed upon the expiry of the previous term of the Legislative Council in July 2012.

The proper treatment of parody can facilitate our updating of Hong Kong's copyright regime. From July to November 2013, we specially consulted the public on parody and the related subjects. We reported the consultation outcome to the Panel on Commerce and Industry of the Legislative Council and set out the Government's proposed directions for taking the matter forward in December 2013 and March 2014 respectively. Many Members hope that we can expeditiously introduce the Bill into the Legislative Council to update Hong Kong's copyright regime in order to ensure that it keeps pace with the times, as well as with technological and overseas developments.

After thoroughly considering the views received from public consultations, overseas experience and giving due regard to present day circumstances in Hong Kong, we have drawn up the directions for the treatment of parody and combined the new proposals with the legislative proposals contained in the 2011 Bill to form the Copyright (Amendment) Bill 2014.

Now I would like to explain in more detail the major proposals in the Copyright (Amendment) Bill 2014:

(1) *Communication Right*

At present, the Copyright Ordinance gives copyright owners certain exclusive rights, including the right to make a copyright work available to the public on the Internet, to broadcast a work and to include a work in a cable programme. With advances in technology, new modes of electronic transmission, such as streaming, have been emerging. The current scope of statutory protection may not be adequate to cope with such rapid changes. We propose to introduce a technology-neutral exclusive communication right for copyright owners to communicate their works to the public through any mode of electronic transmission.

The new right will assist copyright owners in exploiting their works in the digital environment for business purposes and promote the development of digital content. Many overseas countries, such as Australia, the European Union, the United Kingdom, Singapore, New Zealand and Canada, have introduced statutory communication right at different times since 2001.

(2) *Clarifying the criminal liabilities arising from criminal sanctions*

In view of the proposed communication right, we recommend the introduction of corresponding criminal sanctions against unauthorized communication of copyright works to the public. The standards in our proposal mirror the existing criteria in determining the criminal liability of distributing infringing copies adopted in the Copyright Ordinance. In simple terms, criminal liability will be incurred in the event of unauthorized communication of copyright works to the public, similar to the distribution of infringing copies, for the purpose of or in the course of any trade or business that consists of communicating works to the public for profit or reward or "to such an extent as to affect prejudicially the copyright owner".

To allay concerns about the possible impact on the free flow of information across the Internet and to provide greater legal certainty,

we proposed to clarify the criminal liability of causing prejudice to the copyright owner in the 2011 Bill. The Bills Committee agreed with our proposal on underlining in the legislation the consideration of whether the infringing acts have caused "more than trivial economic prejudice" to the copyright owners and introducing a non-exhaustive list of relevant factors to guide the Court in determining the magnitude of economic prejudice.

In the consultation on parody completed last year, the stakeholders expressed their opinions on the subject. After considering their views, we propose in the 2014 Bill to better clarify what amounted to "such an extent as to affect prejudicially the copyright owners". We will drop the phrase "more than trivial economic prejudice", and instead stipulate in the legislation that when determining the criminal liability of certain behaviour, the Court will examine all the circumstances of a case and in particular the economic prejudice, having regard to whether the infringing copy amounts to a substitution for the work.

(3) *Copyright exemptions*

In the existing Copyright Ordinance, there are over 60 sections specifying permitted acts which may be done in relation to copyright works without authorization notwithstanding the subsistence of copyright (such as for the purposes of research, private study, criticism and review of copyright works, reporting current events, education or receiving education), and thus attracting no civil or criminal liability.

To tie in with the introduction of the communication right, we propose expanding the scope of copyright exception under the existing law to balance copyright protection and reasonable uses of copyright works and to protect users' freedom of expression, by giving copyright exemptions for the following purposes:

- (1) parody, satire, caricature and pastiche;
- (2) commenting on current events; and

- (3) quotation (which may include the use of excerpts to help provide information or illustrate arguments and to engage in communication, such as image capture).

Purposes covered by the above new exemptions attract neither civil nor criminal liability if fair treatment is given.

Apart from the new exemptions for parody, comments on current events and quotation, we will extend the current copyright exemptions to cover such reasonable purposes as giving educational instructions (especially for distance learning), facilitating daily operations of libraries, museums and archives, temporary reproduction of copyright works by Online Service Providers (OSPs), media shifting of sound recordings and so on.

I believe that with these new copyright exceptions in place, many of the common activities on the Internet will appropriately be taken care of. Users' freedom of expression and creativity will be safeguarded.

- (4) *Safe harbour*

We propose to establish a statutory "safe harbour" for OSPs so that their liabilities for copyright infringement occurring on their service platforms can be limited, provided that OSPs meet certain prescribed conditions, including the taking of reasonable steps to limit or stop copyright infringement when being notified. The proposal aims at facilitating OSPs' handling of infringement claims in an efficient and effective manner other than court proceedings to balance the interests between copyright owners and users.

The safe harbour provisions proposed by the Bill will include protection in different aspects so as to address concerns of the stakeholders, prevent abuse of the regime and protect users' personal information.

- (5) *Additional factors for assessing damages*

Lastly, we propose introducing additional factors in the legislation for the Court to consider in assessing damages in civil cases in which

infringement has been established with a view to doing justice and addressing challenges posed by online piracy in the digital environment.

Since the end of last century, many overseas countries such as the United States, Australia, the United Kingdom, Canada and Singapore have already changed their copyright laws to respond to rapid technological developments. Hong Kong's copyright regime needs to be updated expeditiously to keep pace with technological and overseas developments.

In formulating legislative proposals, we have maintained a close dialogue with key stakeholders including copyright owners, users and OSPs, to listen to their views and ensure that the Bill maintains a reasonable balance between the interests of different stakeholders and fulfil our obligations under different international copyright treaties.

On the one hand, the legislative proposals in the Bill will enhance copyright protection in the digital environment and help combat large scale online piracy. On the other hand, the proposed copyright exceptions will take care of many common Internet activities such as parody and safeguard users' freedom of expression. The Government will continue to liaise with the Legislative Council and stakeholders in the ensuing updating exercise.

With these remarks, President, I urge Members to support the Bill. Thank you, President.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Copyright (Amendment) Bill 2014 be read the Second time.

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

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. There are a total of three Members' motions for this meeting.

PRESIDENT (in Cantonese): First Member's motion: Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending three items of subsidiary legislation in relation to the Telecommunications Ordinance, which were laid on the table of this Council on 21 May 2014.

I now call upon Mr Charles Peter MOK to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR CHARLES PETER MOK (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Three Regulations under the Telecommunications Ordinance (Cap. 106) Gazetted on 16 May 2014, I move that the motion, as printed under my name on the Agenda, be passed.

Since the Subcommittee needs more time for the scrutiny work, I call upon Members to support the motion that the period for scrutinizing the aforesaid regulation be extended to 9 July 2014.

President, I urge Members to support the motion.

Mr Charles Peter MOK moved the following motion:

"Resolved that in relation to the —

- (a) Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1.9-2.2 GHz Band) Regulation, published in the Gazette as Legal Notice No. 58 of 2014;
- (b) Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2014, published in the Gazette as Legal Notice No. 59 of 2014; and
- (c) Telecommunications (Method for Determining Spectrum Utilization Fees) (Third Generation Mobile Services) (Amendment) Regulation 2014, published in the Gazette as Legal Notice No. 60 of 2014,

and laid on the table of the Legislative Council on 21 May 2014, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 9 July 2014."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Charles Peter MOK be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Charles Peter MOK be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr CHAN Chi-chuen rose to claim a division.

PRESIDENT (in Cantonese): Mr CHAN Chi-chuen has claimed a division. The division bell will ring for five 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 Abraham SHEK, Mr Frederick FUNG, Mr Andrew LEUNG, Mr WONG Ting-kwong, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr IP Kwok-him, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Miss CHAN Yuen-han, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Martin LIAO and Mr POON Siu-ping voted for the motion.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr Ronny TONG, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Paul TSE, Mr Alan LEONG, Ms Claudia MO, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Miss Alice MAK, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 17 were present, 17 were in favour of the motion; while among the Members returned by geographical constituencies through direct elections, 19 were present, 18 were in favour of the motion. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was passed.

PRESIDENT (in Cantonese): The second and the third Members' motions are motion debates with no legislative effect. I have accepted the recommendations of the House Committee: that is, movers of the motions each may speak, including making a reply, for up to 15 minutes; and other Members each may

speak for up to seven minutes. The mover of the third Member's motion has another five minutes to speak on the amendments; and the movers of the amendments to that motion each may speak for up to 10 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): Second Member's motion: Report of the delegation of the Subcommittee on Poverty to study the experience of poverty alleviation in Taiwan and Japan.

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

I now call upon Mr Frederick FUNG to speak and move the motion.

REPORT OF THE DELEGATION OF THE SUBCOMMITTEE ON POVERTY TO STUDY THE EXPERIENCE OF POVERTY ALLEVIATION IN TAIWAN AND JAPAN

MR FREDERICK FUNG (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Poverty (the Subcommittee), I move that the motion, as printed on the Agenda, be passed.

The delegation of the Subcommittee visited Taiwan and Japan from 20 to 29 August last year to study the experience of poverty alleviation in these places. The delegation met with a number of government officials, members of the legislatures, representatives of not-for-profit organizations and academic. The delegation also visited some not-for-profit organizations and social welfare facilities so as to understand the strategies and measures adopted by Taiwan and Japan in the following three aspects: tackling working poverty and elderly poverty, and promoting community economy in order to alleviate poverty.

The delegation considers that the experience of the above two places provides useful reference for the Subcommittee in discussing the relevant topics. I will now give a brief account of the observations of the delegation and the conclusion of the Subcommittee's discussion.

The delegation notes that apart from providing financial assistance to low-income families, the Taiwanese government has also introduced measures to boost capabilities and enhance self-reliance of low-income families.

The delegation also notes that both Taiwan and Japan provide low-income families and working poor with loans. In Taiwan, the loan is used for starting up business while in Japan, the loan is used for supporting the living, training, home moving and renovation, long-term care, education and other emergency expenses of low-income families. The delegation, however, is concerned about the situation if low-income people have difficulty in making repayment given their meager income.

The delegation considers that it is more appropriate in the Hong Kong context to provide financial assistance to low-income families in the form of cash subsidies. However, the situation has probably changed over the past seven months. The Commission on Poverty of the Government has currently introduced the Low-income Working Family Allowance, which is a similar proposal drawn up in response to the findings of the delegation.

The delegation has presented its findings on the handling of working poverty in Taiwan and Japan, together with a comparison with the practice in Hong Kong, to the Subcommittee to facilitate its discussion of the subject. Considering that the current support by the SAR Government for low-income working households is inadequate, the Subcommittee requests the Government to alleviate the poverty of these households by providing them with cash subsidies. In particular, the proposal put forward by the Government only focuses on low-income working households and households with children. But in the discussion of the Subcommittee, many members have pointed out that elderly households, households with sick or disabled persons are also faced with similar pressure caused by poverty and should be given assistance by the Government.

Noting that retirement protection is regarded as a right rather than welfare in Japan, the delegation is impressed by Japan's universal retirement protection scheme to which the Government, employers and employees are required to contribute. The delegation has been advised that government expenditure on social security payments, including pension payments, has been increasing due to rising elderly population in Japan. In this regard, the Japanese Government has decided to increase the national sales tax to, *inter alia*, provide additional funds for the scheme. The general public in Japan accepts using government revenue

to maintain the scheme as they consider that the contributions of the elderly to the society should be duly recognized. The delegation is of the view that in considering retirement protection for the elderly, the Government should follow values of the retirement protection system in Japan which stems from respecting elderly persons. The issue of elderly poverty has been discussed by the Subcommittee which has called for the Government to, *inter alia*, reform the Mandatory Provident Fund system and provide retirement protection for all people in Hong Kong.

Based on the findings on vitalization of community economy in Japan and Taiwan obtained from the duty visit, the delegation observes the following three success factors for community vitalization: first, high involvement of the stakeholders concerned in mapping out and implementing a development plan under the guidance of community leaders; second, building sustainable interest in the community by leveraging on its distinctive geographical, economic and cultural characteristics; and third, support of the Government in terms of providing financial assistance and support on infrastructural development, so as to create a new community economy platform.

The issue of alleviating poverty through promoting community economy has been discussed by the Subcommittee. Members have suggested that in promoting community economy in Hong Kong, the Government should make reference to strategies adopted in Japan, and the successful example of the Taiwanese government in vitalizing a rural community through developing community building activities. Members consider that, like Japan and Taiwan, development of community economy in Hong Kong should be carried out in a holistic manner with the tripartite participation of stakeholders, the business sector and the Government. Members share the views of deputations attending the relevant subcommittee meeting that co-operative societies should not be regulated by the Agriculture, Fisheries and Conservation Department. They call on the Administration to review the Co-operative Societies Ordinance to facilitate the development of co-operative societies, and provide them with more support such as tax exemption. Members suggest that policies in this regard should be formulated and they also call on the Administration to formulate policies for the development of social enterprises, hawking activities and bazaars.

President, the above is the remarks made in my capacity as Chairman of the Subcommittee. Regarding this duty visit, I would also like to share some of my personal feelings. There are two main points, one of which is working poverty.

The Government has formulated policy in this area in response to the opinions expressed by the Subcommittee as well as the general public. As I have already mentioned this point in my speech, I am not going to repeat. Instead, I would like to talk about universal retirement protection.

There are heated arguments on universal retirement protection in various sectors of the community. Some people opine that the growing elderly population has become a burden to us. Even the Financial Secretary has said something like this and has thus proposed to set up a "Future Fund". But this Fund is not specifically set up for the elderly, the Financial Secretary just uses the elders as an excuse. As such, how should the issue of elderly be addressed? President, in Japan, elderly persons are not regarded as a burden but a treasure. The present achievement of Japan is attributed to the elderly who made contribution two or three decades ago when they were young. The hard work of the elderly has contributed to the prosperity enjoyed by Japan today. For this reason, respecting the elderly is a kind of value to the Japanese. Unlike Japan, Hong Kong regards respecting the elderly as a financial burden and hardship, and does not show respect to them.

As we all know, Japan has recently introduced and passed the proposal of increasing the sales tax by 3%. During the visit, we asked the government officials whether the public would be repulsed by the tax rise and refuse to vote for the parties to which these officials belong. But the situation is just the opposite. These government officials were still re-elected even after the tax rise and won the majority of the seats in the parliament.

President, we should not simply consider universal retirement protection from the economic perspective, but disregard the human perspective and the contribution made by the elderly to our society. There is one more point. The elderly 30 years ago or 20 years ago were different from the elderly in this generation or 20 years later. The elderly are becoming more and more knowledgeable, professional and wealthy. The elderly represent a silver hair market, which has already flourished in Japan. Therefore, if we have better vision, we would know that the elderly are not a burden to us; on the contrary, they provide a platform for us to develop new industries and business.

Another aspect I would like to talk about is community economy. Hong Kong has never paid good attention to the development of community economy. The only exception is during the outbreak of the financial crisis and the avian flu in 2002 and 2003 when the Government introduced some short-term measures to

promote community economy development. But since then, nothing has been done in this respect. By now, the only measure in force is the Enhancing Self-Reliance Through District Partnership Programme proposed by the former Commission on Poverty, under which a subsidy of \$1 million plus (as high as \$3 million some years ago) will be granted to encourage employment and business startup. Through running a business, more workers in need of a job or in a disadvantaged position will be employed. We greatly depend on individuals or voluntary organizations to take up this work. While voluntary organizations are good at providing services, I think they may not perform so well in running business.

However, Taiwan and Japan have different experiences. In Taiwan, we mainly learn from the experience of a place called Darerhjieh District. The report of the delegation has given a description, but I still want to say a few words about the place. In 1995, the Darerhjieh Cultural and Educational Association was set in the Darerhjieh District which has successfully vitalized the whole community by developing community building activities that leveraged on the distinctive geographical, industrial and cultural characteristics of the District with educational and cultural conservation elements. New festivals such as cultural festivals are held.

In Japan, the revised policy on vitalization of city centres was introduced in 2006 under which local residents, business operators, chambers of commerce, developers and enterprises of a city centre will explore how to create a new environment and submit a proposal to the local government and the central government. After reading through the proposal, if the local government and the central government consider it feasible and effective, funding as much as 50% to 66% (two thirds) of the costs of the whole project will be granted to renovate the city centre, rearrange the stalls and set up new shops. These shops may even establish chambers of commerce to further promote the work of other city centres.

Currently, 10 000 commercial street economy communities have been established in Japan. On the contrary, we seldom consider creating new economic systems from the perspective of a city centre or community. Despite their small size involving only 10 000 or even a few thousand people, these economic systems at least create a new economic platform. Whenever people encounter financial problems or have difficulties in looking after their children, mutual assistance will be offered at the city centre level so that personal and family problems can be addressed or relieved.

Therefore, poverty alleviation should not simply focus on funding. I remember that the Subcommittee to Study the Subject of Combating Poverty formed in the last legislative term paid a visit to Korea. During the visit, we met with a Korean minister who had impressed me with the following remark: To a young person or adult who is in financial difficulty, the most important welfare is not to give him money but to help him get a job through which he can earn a living for himself and his family. President, the community economy we have observed on this occasion is exactly a district-level stimulus to building industrial platforms in the local community which allows everyone to rely on themselves in starting up business.

In conclusion, recently some graduates from the Harvard University have stated that starting up business is easy and even better than looking for a job because a job seeker is subject to a lot of constraints while a business starter relies on himself. President, should the policy of the SAR Government in alleviating poverty move towards this direction and value?

Thank you, President.

Mr Frederick FUNG moved the following motion: (Translation)

"That this Council notes the Report of the delegation of the Subcommittee on Poverty to study the experience of poverty alleviation in Taiwan and Japan."

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first of all I would like to ...

MR ALBERT CHAN (in Cantonese): President, please do a headcount before the Secretary speaks. Thank you.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Secretary for Labour and Welfare, please continue.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, first of all, I would like to thank Mr Frederick FUNG for proposing this motion. Last August, a total of 10 Legislative Council Members, including members of the Subcommittee on Poverty, visited Taiwan and Japan to learn from the two places experience of poverty alleviation, especially their strategies of assisting low-income working families and the elderly. From the number of Members participating in the visit, we can see that the Legislative Council attached great importance to the duty visit and was very concerned about the poverty alleviation work.

As we are all aware, poverty alleviation is one of the major policy issues of the incumbent Government. The main goal of the Government's poverty alleviation policy is to encourage young people and adults to become self-reliant through employment, while putting in place a reasonable and sustainable social security and welfare system to help those who cannot provide for themselves. The re-establishment of the Commission on Poverty by the incumbent Government demonstrates the Government's keen determination to address the poverty problem in society. Last September, the Government set the poverty line, which provides a clear and objective basis to review the poverty situation, formulate policies and assess the effectiveness of measures. We will update the poverty line annually to monitor the poverty situation and the effectiveness of our policies.

Having examined the relevant poverty-related data, the Chief Executive announced in his Policy Address delivered in January this year to accord priority to assisting low-income non-Comprehensive Social Security Assistance working families, especially those with children and young members at school, and proposed to introduce a Low-income Working Family Allowance (LIFA). Before and after the delivery of the Policy Address, the Government listened to the views of many parties about LIFA. For example, the Commission on

Poverty thoroughly discussed the basic design of LIFA three times. The Subcommittee on Poverty of the Legislative Council chaired by Mr Frederick FUNG also discussed this subject at the meetings held on 8 July and 22 November last year, and 29 January, 12 May and 27 May this year. The Subcommittee also invited many deputations to attend three of its meetings to express their views on LIFA. Besides, before proposing this motion debate, Mr Frederick FUNG also proposed a motion debate on "Establishing a low-income subsidy system" on 4 December last year. Having appropriately considered the views received, we put forward new proposals concerning the major criteria for the grant of LIFA and outlined the implementation framework. We submitted a comprehensive report to the Subcommittee on Poverty on 27 May. I have personally attended every meeting and public hearing concerned held by the Subcommittee to listen to the views of Members and members of the public. Here I would like to thank Members for their efforts over all these months.

In respect of elderly persons living in poverty, the Old Age Living Allowance has so far benefited about 420 000 elderly persons, who account for over 40% of the population aged 65 or above in Hong Kong. The Commission on Poverty has also commissioned a team of researchers with Prof Nelson CHOW as the chief consultant to assess various retirement protection schemes based on the multi-pillar model proposed by the World Bank and make recommendations on our way forward.

After returning to Hong Kong, the Legislative Council delegation had written a detailed report on their experience and knowledge gained from the visit, from which we can deepen our understanding about the experience of poverty alleviation in other places. Of course, when we formulate policy on poverty alleviation, we will adopt measures relevant to the real situation in Hong Kong and make sure that they will be practical and viable.

Today, Mr Frederick FUNG proposes a motion on this report, which provides a very good opportunity and platform for us to continue to listen to the views on the Government's poverty alleviation policy. We hope that by pooling the wisdom of the mass, we will be able to formulate measures that will be more appropriate and benefit more people in need.

Thank you, President.

MR TAM YIU-CHUNG (in Cantonese): President, since Mr LEUNG Chun-ying assumed the post of the Chief Executive, the SAR Government has made great progress in poverty alleviation and has introduced a number of breakthrough measures which include the setting of a poverty line, Old Age Living Allowance, Low-income Working Family Allowance, and so on. Poverty in society is a problem that the Government has to face in the long run and therefore continuous improvement has to be made to the policy on poverty alleviation. Earlier, the Subcommittee on Poverty paid a visit to Taiwan and Japan to study the experience of poverty alleviation in these places. Regarding the report, I think there are three points worth mentioning.

Firstly, the poverty alleviation measures of Hong Kong should be more comprehensive and such measures should be implemented in a more focused manner by several departments. In Taiwan, the poverty alleviation measures cover care for children and juvenile, subsidies for families encountering special situation, assistance to the disadvantaged group, housing subsidies, and so on. There is a wider coverage for the target recipients. For example, regarding care for children and juvenile, Taiwan has introduced subsidies for childcare, childcare allowance for non-working parents, and so on. These are experiences that Hong Kong can draw on. Regarding the housing support for low-income households, Taiwan has put in place a number of measures such as rent subsidy, renovation subsidy, as well as subsidy for repaying mortgage interest for homes purchased or built.

In Hong Kong, with work implemented in the past two years for catching up, our poverty alleviation measures have gradually made some progress. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) is of the view that some more specific financial assistance should be introduced in due course so as to make our poverty alleviation measures more comprehensive. They include fine-tuning the Old Age Allowance system, subsidizing the elderly for denture fixing, introducing a comprehensive allowance system for carers of persons with disabilities, offering children healthcare voucher, increasing the allowance for student learning expenses; as well as providing housing support in the form of rent subsidy. Currently poverty alleviation measures of the SAR Government are carried out by various government departments. Take the provision of cash subsidy as an example. Different departments are involved including the Social Welfare Department, Labour Department, Home Affairs Department, Student Financial Assistance Agency, Department of Health, and so on. As a result, low-income families often need to travel around to different departments in order to get the necessary subsidies. In Taiwan, people can

basically apply various cash subsidies from the Department of Social Welfare in the city or county. In this regard, Hong Kong should review and simplify the application process for various poverty alleviation measures and provide one-stop service, so as to give more effective help to those in need.

Secondly, the experience of Taiwan and Japan indicates that various social assistances should be provided to those with the most imminent needs and therefore, apart from setting income limits as a criterion, there are also assets limits. This point is enlightening to Hong Kong. For example in Taiwan, it is stipulated in the Public Assistance Act that a low-income or a medium-income family will be eligible for public assistance if the monthly income of the family falls below the statutory standard and the total assets of the family do not exceed the levels specified by the responsible regional authorities. For the sake of calculation, total family assets include both liquid assets and real estates.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

In paragraph 5.5 of this report prepared by the Legislative Council, it has cited the motion passed by the Subcommittee, highlighting that the Subcommittee has called on the Administration to observe the following principles in introducing the low-income family supplement: supplement should be payable on the basis of a household income equivalent to 75% of the median household income in the territory; and the asset test should be abolished. The DAB has reservation on these two points because we think that there should be an asset test in the new system in order to ensure effective use of public money; otherwise, taxpayers may have the impression that they are subsidizing people who have lots of assets, thus creating new conflicts. As a matter of fact, the low-income family supplement being planned is already lenient in its asset test, in that applicants are allowed to own a property, and if that property is for self-occupation, it will not be included in the asset limit. In Taiwan, despite its population of 23 million, the total number of low-income and medium-income families that can meet the statutory requirements is only 700 000. On the contrary, in Hong Kong, the number of recipients of this low-income family supplement alone amounts to 710 000. In deciding who should be given assistance in our future poverty alleviation measures, we should be more careful to ensure that a healthy public finance is maintained.

The third enlightenment is that the Taiwanese and Japanese Governments are highly concerned about the sustainability of social security. Today, the Hong Kong community has divided views on the question of how to set up the universal retirement protection system. Some people request that no contribution should be made by the public and as long as a person meets the age requirement, regardless of whether he is rich or poor, the Government should grant him retirement security payment. According to the experience of Taiwan and Japan, such request is not practicable at all. In Taiwan, the new National Pension Programme introduced in 2008 aims to protect those citizens who have never joined any social insurance, including mainly housewives or the jobless. Each participant is required to contribute 60% of the premium for the national pension on a monthly basis while the Government contributes the remaining 40%. The premium rate will keep increasing. Currently it is 7.5% and will be increased to 12% in the future. In Japan, the insured persons under the National Pension Scheme, including housewives or the jobless, are also required to make contribution. In view of the increasing expenses on social security, the Japanese Government has recently increased the national sales tax so as to provide additional provision for the National Pension Scheme. Therefore, we must be aware that universal contribution is an important financial source for the universal protection scheme, if such a scheme is to be set up in Hong Kong. A retirement protection scheme can only be sustainable when members of the public are willing to make contribution.

I so submit. Thank you, Deputy President.

MR WONG YUK-MAN (in Cantonese): Deputy President, both Taiwan and Japan in which the delegation visited on this occasion are commonly regarded as places with weaker economies than Hong Kong. In the past three years, the Gross Domestic Product (GDP) of Taiwan has witnessed a decrease by 1.27% while that of Japan has also dropped by 0.8%. On the contrary, the GDP of Hong Kong has only witnessed a decrease of 0.4% in the third quarter of 2011, which is then followed by a slight growth for 11 quarters in a row. No matter it is Taiwan, which has experienced a downturn in exports for the recent decade, or Japan, which has lost its bearings for two decades, their Governments pay more regard to the problem of poverty than the Government of the HKSAR. The Japanese government is working hard on alleviating poverty even at the expense of incurring debt every year. The report of the delegation concludes that the experience "can serve as useful reference for Hong Kong in mapping out poverty alleviation strategies that are most suitable for Hong Kong". In my view, the

report should take a tough stance and deplore the lukewarm efforts of the SAR Government, especially the government official sitting in this Chamber, in alleviating poverty.

Regarding the duty visit, I think the most valuable reference for Hong Kong is community economy, which is a substantive production activity and can create more values than granting subsidies. The community economy of Hong Kong has been completely destroyed by the SAR Government: shopping centres in public housing estates are occupied by large consortia invited by The Link Management Limited; public markets have poor sanitation conditions; hawkers in fixed stalls frequently receive penalty tickets; mobile hawkers often have their goods confiscated; people with little capital or expertise may only work as cheap labours in large chain groups. As a result, a fleecing economic structure is formed and the problem of poverty certainly deteriorates.

During the visit, we could not visit the famous Darerhjieh Cultural and Educational Association and the Community Design Centre in Yilan due to the severe tropical storm that hit Taiwan, and could just paid a visit to the shopping districts in Kawasaki City of Japan. Though the one hundred-plus small shops in the shopping streets have been affected by the competition from large-scale shopping malls and supermarkets, they are still patronized by many residents. While community economy may not eliminate poverty, members of the public may work there and earn a living. Any region in the world may be affected by the global economic environment. Large-scale layoffs in large enterprises may take place from time to time. Locally-based community economy can then provide a safety net for the people so that those who lose their jobs can still earn a living. If the SAR Government does not relax the suppression on community economy, the grassroots cannot make both ends meet. Does the Government want the problem of "second-hand meals" that occurred in 2003 during the outbreak of the SARS to recur again?

At the meeting of the Subcommittee on Hawker Policy held two days ago, the Legislative Council Secretariat has listed out the successful experiences of Thailand, Singapore, Australia and Taiwan. But the Food and Health Bureau insists on restricting the operation of hawkers while the Labour and Welfare Bureau refuses to include hawker policy in its poverty alleviation policy. The market threshold for hawkers is very low and hawkers form a significant part in community economy. But the Government takes an antagonistic attitude towards such policy. We cannot help thinking that the SAR Government is not

a bit sincere in addressing poverty and that all efforts made to alleviate poverty are just superficial.

Last week I gave a speech at the National Cheng Kung University in Tainan. I took the opportunity to visit the night market in Kaohsiung and found that different kinds of food were sold there and the market was dirty and messy at night time. But when I passed by the place again in the morning, it was unbelievably clean. People there have behaved themselves and need not be regulated by issuing penalty tickets. As the saying goes, "stones from other hills may be polished into jade". But the Hong Kong Government does not take this into consideration and insists on imposing regulation and management on hawkers. That is why I said at the meeting that it was a waste of time to join the Subcommittee on Hawker Policy.

In concluding the experience observed in the duty visit, the report of the delegation states that the success factors for community vitalization are guidance of the community leaders, coupled with local social environment and government support. But in my view, the report has not said enough and so I need to say a few more words.

The Darerhjieh District is a rural community in Yilan, Taiwan; in Japan, the city centre of Iida City is a shopping centre of local produce while the city centre of Nagahama City is a centre for selling glass products. All of them have integrated with the local light industries or agricultural industries to form a community economy structure. It is difficult for Hong Kong to follow these examples. In Taiwan, hawkers bring their cooking skills and creativity into full play and make various street snacks from local produce such as oyster omelet, deep fried chicken and pig's blood rice pudding. They then form night markets with other hawkers which not only bring delicious food to local residents but have also attracted overseas tourists. With the recent expansion of the individual visit scheme for Mainland Chinese tourists, many consumers in Taiwan night markets are Mainland tourists. People begin to worry that the rising number of Mainland tourists will cause overcrowding. This is another issue. All these are examples of community economy. For years, the SAR Government only emphasizes on finance and real estate, and has neglected local light industries and agriculture. Handicrafts and snacks with local characteristics will sooner or later die out. It is impossible to make any progress in developing community economy. The rental problem needs not be mentioned as it is basically an incurable illness. Nowadays it is difficult for us to taste

good wonton noodles in a Hong Kong style tea cafe because all shops have become chain stores. The soaring rents are unaffordable.

The delegation has also made observation on the poverty alleviation strategies and retirement protection of Taiwan and Japan. Regarding the level of subsidies and retirement protection, we have already mentioned them at various panels and motion debates of the Legislative Council. I would like to discuss some measures not related to money. The "Holding Hands" programme and low-cost housing social support services in Taiwan, as well as Hamakawasou and Shinagawaryou in Japan are all people-oriented measures that take care of people's daily living. This warrants careful deliberation by the Labour and Welfare Bureau of the SAR Government. Since the implementation of the lump sum grant subvention system, social workers in social welfare organizations find it difficult to concentrate on following up cases and taking care of the needs of the service recipients. If they are further asked to provide social services similar to those provided in Taiwan and Japan, it will be extremely difficult, if not impossible. The Labour and Welfare Bureau always handles the problems of social welfare and poverty with quantified indicators and scientific management (asset and income tests, measures to prevent abuse), treating service recipients as a bunch of figures without considering their daily needs.

Other members in the delegation all agree that the visit is a pleasant and enlightening experience. In seeing how comprehensive the poverty alleviation measures of Taiwan and Japan are, they think of how apathetic the SAR Government is, and they realize how powerless they are being the representatives of the people. In my view, the visit is an experience that merits our serious self-reflection. Keeping in mind that Hong Kong ranks first in terms of wealth gap, I strongly reprimand the SAR Government for bringing all kinds of miseries to the people (*The buzzer sounded*) ...

DEPUTY PRESIDENT (in Cantonese): Mr KWOK Wai-keung, please speak.

(Mr Albert CHAN stood up)

MR ALBERT CHAN (in Cantonese): Deputy President, while Members are now enjoying their delicious meal, many members of the public do not have a decent meal. Please do a headcount.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): Mr KWOK Wai-keung, please speak.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, we have really learnt a valuable lesson by paying a visit to the neighbouring regions in Asia to study their experience in poverty alleviation and prevention. I am deeply impressed by the visit. Just now Mr WONG Yuk-man pointed out that both Taiwan and Japan have done a good job in poverty alleviation and retirement protection despite their economic downturn. But what I would like to point out is that Taiwan and Japan are similar to Hong Kong in that we are all well-developed cities in Asia with long life expectancy. Japan has adopted a multi-pillar retirement protection system long ago to enable its citizens who have made contribution to society to lead a dignified life after retirement. But what has Hong Kong done? I would like to express my views concerning certain specific target groups, including the elderly population, street sleepers and working-poor households.

The National Pension Scheme of Japan was introduced as early as 1985 to provide basic retirement protection to Japanese citizens aged above 65. As we all know, the ageing of Japan is a very serious problem. The payment made under the National Pension Scheme is on the rise due to the increasing elderly population. But at the same time, income in Japan has been decreasing due to economic downturn, thus indirectly forcing the Japanese Government to increase the sales tax in order to pay for the expenses on social security.

Population ageing in Hong Kong will become as serious as Japan in the future. It is estimated that by 2031, the population in Hong Kong will increase to some 8.16 million, among which about one fourth (that is 2 million) are persons aged 65 or above. The ageing population and the decreasing birth rate will push up the dependency ratio which will double from 198 in 2016 to 380 in 2031. The problem of population ageing in Hong Kong is imminent. To help the elderly in this generation as well as the next generation to lead a secured and dignified life, the existing Mandatory Provident Fund (MPF) alone is obviously

inadequate. In particular, under the offsetting arrangement, the existing MPF is totally not a pillar linked to employment; it can only be regarded as personal savings which cannot support the expenses of our future ageing society. The implementation of universal and comprehensive retirement protection is the only way out.

While the retirement protection consultancy team led by Prof Nelson CHOW is working at full strength, the Financial Secretary suddenly proposed the concept of a "Future Fund" in this year's Budget. He also used the Working Group on Long-Term Fiscal Planning as the protective shield, pointing out that population ageing will put a great burden on the Government in the future public expenditure. He further advised that the Hong Kong Government will experience a structural fiscal deficit as early as seven years later and therefore Hong Kong should start saving for the future. He even proposed to transform the Land Fund into the "Future Fund".

The remarks and proposals of the Financial Secretary give me an impression that he is asking people in this generation to save as much as they can to buy a flat or save a lump sum of money, which will be passed on to the next generation like a legacy; but he does not seem to care whether people in this generation lead a prosperous life. Besides, so far the Government has not given a substantive account of the functions of the "Future Fund", but just advises that planning will be made after the establishment of the Fund. However, the experience of Japan reveals that to maintain long-term retirement protection, it is necessary to have a reliable and stable fiscal income. Unless the Government introduces new taxes, the only option is to start the universal retirement protection by making use of the Land Fund or the "Future Fund".

Furthermore, I would like to talk about the policy of the SAR Government on street sleepers, which is often criticized by street sleepers and their support groups as indifferent. The Government resorts to confrontational means and some of the common measures adopted include closing off the area under flyovers so that street sleepers cannot sleep there; taking away the belongings of street sleepers; using corrosive detergents, ammonia powder, itchy powder, and so on to disturb their life. In our view, in order to address the problem of street sleepers, apart from adopting such approach — maybe it should not be adopted at all — the Government should indeed take a positive attitude. For instance, building the street sleepers' services units above the Shanghai Street refuse collection point has revealed the attitude of the Government towards street sleepers. On the one hand, the Government looks down on street sleepers; and

on the other hand, the Government, to a certain extent, does not welcome them to move into the services units. As a result, the service units are not fully used.

In our view, the Government should follow the example of Japan in handling street sleepers so as to help them lead a new life. What services does Japan provide to street sleepers? They include visiting them frequently; providing temporary shelters, health check-up, service need assessment and daily life guidance; offering accommodation for six months for homeless persons who are assessed to have capability and intention to work. The shelters provided are all clean and tidy, with a separate room for each of them and a public canteen. Street sleepers will have a regular life pattern. In contrast, when I was still a student, I visited some dilapidated units in old public housing estates which were used as shelters for street sleepers. Ten-odd bunk beds were placed in the unit. Besides, for street sleepers who leave the shelters, the Japanese Government will continue to follow up their employment and living conditions so as to improve their living conditions. These are the tasks that should be undertaken by the Government.

Moreover, regarding the Low-income Working Family Allowance, I would like to just point out that the number of working hours set by the Government is too high (*The buzzer sounded*) ... Sorry, Deputy President.

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

MR ALBERT CHAN (in Cantonese): Deputy President, please remind Members that many people do not have a decent meal. Please do a headcount.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

DEPUTY PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che, please speak.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, last year, the Subcommittee on Poverty visited Taiwan and Japan to study the experience in poverty alleviation in these places. A year has passed, I can still well remember the visit. There are a lot of similarities between Taiwan and Japan in their social and economic development over the past three decades. This is the reason for choosing these two places for the visit. I hope the Government would treasure the experience gained on this occasion and would not once again brush aside the report.

I would like to talk about a few points. First of all, I am deeply impressed by the business start-up loan scheme of Taiwan as explained in the report. This is in fact a measure introduced after the Taiwanese Government has effectively encouraged the development of small businesses, with a view to addressing the problem of unemployment (particularly structural unemployment) among women. As a matter of fact, with the development of economic globalization in the current 20 years, different places in the world have made adjustments in their industrial structure. In addition, with the rapid development in information technology and the emphasis on knowledge-based economy, both Taiwan and Hong Kong face the problem of unemployment and shrinking elementary posts.

While the Hong Kong Government has offered assistance to small and medium enterprises, it has neglected the start-up of micro-enterprises. Years ago, the Taiwanese Government already introduced a similar business start-up loan scheme for the middle-aged group between 45 and 65 to promote the development of micro-enterprises (companies comprising of only five to six persons). Despite their small scale, such enterprises can flourish easily due to the small amount of seed money required and their flexible mode of operation. Though a small shop only hires two to three persons, it may make considerable business in the long run.

In 2007, the Taiwanese Government introduced the business start-up small loan scheme for women aged between 20 and 65, coupled with business start-up advisory services. In 2009, the Taiwanese Government consolidated the two schemes and introduced the present business start-up loan scheme. Having accumulated years of experience, the Taiwanese Government seems to have truly achieved the two functions of being the guarantor and reducing loan interest rates. As a result, many people are attracted to the scheme and, so far nearly 10 000 middle-aged women have been assisted to start up business. Assuming that each of them hires two to three employees in average, some 20 000 job opportunities have been created. It is particularly worth noting that further concession is made to those groups with special needs (including the victims of domestic violence).

I think the key to success for the Taiwanese Government is that, firstly, it takes into account public sentiments and minimizes red tape. It gives real assistance to the public and acts as a lever by working on loan guarantee and reducing interest rates. Secondly, the Taiwanese Government is truly concerned about the social welfare functions of the scheme and its policy is inclined towards the disadvantaged group. Besides, I am deeply impressed by the adoption of case management and personalized employment services to help the disadvantaged to get out of poverty, under which assistance are provided in areas such as job seeking, capability enhancement and adaptation to new working environment. In fact, the social welfare sector in Hong Kong had once provided similarly good services but failed to achieve similar impact due to the lack of support from the Government by reducing the funding.

In Japan, the Public Assistance System has a legal basis and implemented under the Public Assistance Act which includes eight categories of assistance to the needy, namely livelihood assistance, education assistance, housing assistance, medical assistance, long-term care assistance, maternity assistance, occupational assistance and funeral assistance. Officials of the SAR Government will definitely argue that Hong Kong has also offered similar assistance, but the Japanese Government implements the system by legislation, which shows that it is willing to take up the responsibility ...

MR ALBERT CHAN (in Cantonese): The speech of Mr CHEUNG Kwok-che is so brilliant that it should be heard by more Members. Please do a headcount.

MR CHEUNG KWOK-CHE (in Cantonese): Let me take a break for the time being.

DEPUTY PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, THE PRESIDENT resumed the Chair)

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr CHEUNG Kwok-che, please continue.

MR CHEUNG KWOK-CHE (in Cantonese): President, just now I was talking about the Public Assistance System of Japan which is implemented by way of legislation. This shows that the Japanese Government is willing to take up responsibility. Of course this is somehow related to the fact that every citizen has one vote in hand.

President, Japan introduced the Long-term Care Insurance System in 2000 with a view to supporting the growing long-term care needs of the elderly. Disregarding whether the System is ideal or not, at least Japan had already put in place a decade ago an option to address the problem of population ageing. The System is financed by premiums paid by the insured persons (50%) and funding of the Government (50%). The premium paid by low-income elderly persons is half of the standard level.

Another poverty alleviation measure is setting up the Independency Support Centre, which will liaise with the elderly persons who own vacant properties in some ageing communities and may help them renovate the properties for renting to the poor elderly in the communities. The Government will then recover the renovation costs from the rents collected. In Hong Kong, however, the so-called revitalization of old communities only means demolition, demolishing old buildings for the development of luxury residence, and turning economic and social values into considerable benefits gained by developers.

President, having studied the development of Taiwan and Japan, I have an even stronger feeling that under the economic and social conditions of Hong Kong, it is unreasonable why we fail to alleviate poverty and prevent the income gap from widening. I think it depends on whether the Government is willing to make an effort. I strongly call on the Government to pay attention to the imminent needs and misery of the grassroots. Hong Kong is already in a state of desperation. The Government should not provoke a revolt by the public against the bureaucracy.

President, I so submit.

MR CHAN KIN-POR (in Cantonese): President, we can draw lessons from a number of points in the report on the duty visit ...

MR ALBERT CHAN (in Cantonese): President, we should not let Members enjoy their meals leisurely. I request a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr CHAN Kin-por, please continue.

MR CHAN KIN-POR (in Cantonese): President, we can draw lessons from a number of points in the report on the duty visit. As many Members have already expounded in this respect, I wish to concentrate on the National Pension Scheme (NPS) of Japan.

According to the report, the NPS is a universal pension scheme aiming at providing basic retirement protection for all Japanese residents reaching the age of 65. All residents aged above 20 have to pay premium. Old-age basic pension is paid out to the insured after they have reached 65 years old and have paid premium for at least 25 years. The amount of pension payment depends on the number of years of premium contribution. Full old-age basic pension of about HK\$5,000 per month is paid out to the elderly who have paid premium for 40 years. The premium rate is 16.8% of the monthly income of the insured, which is shared equally between the insured and their employers, and the Government also contributes an equal amount. The Scheme also covers the self-employed persons, students and housewives. As the details involved are rather complicated, I will not go into details here.

Noting that retirement protection is regarded as a right rather than welfare in Japan, the delegation is impressed by Japan's universal retirement protection. The delegation notes that the general public in Japan accepts using government

revenue to maintain the scheme as they consider that the contributions of the elderly to the society should be duly recognized. The delegation is of the view that in considering retirement protection for the elderly, the Government should follow values of the retirement protection system in Japan which stems from respecting elderly persons.

I very much agree that Hong Kong should uphold the virtue of respect for the elderly and help the elderly in poverty. While we acknowledge the merits of the NPS of Japan, we should also identify its shortcomings. I do not fully understand the Japanese system but from the information available, I can see that the NPS imposes a very heavy burden on Japanese society. The NPS was implemented in 1985 after revising the original scheme. At that time, the Japanese economy was at its peak and was strong enough to support the operation of the NPS, but after the burst of the economic bubble in the 90s, the NPS has gradually become a heavy burden on Japan. As pointed out in the report, the Social Security System in Japan has been under pressure as its elderly population continues to grow. In the 2012 financial year, Japan's social security payment amounted to HK\$10.7 trillion, representing 22.8% of its Gross Domestic Product, of which 49.1% was pension payment.

Owing to the heavy financial burden, the Japanese Government has been increasing its national debt to finance its expenditure. Recently, the Japanese Government has taken the opportunity of the rebound of its popularity rating to substantially increase the sales tax from 5% to 8%, and may even increase to 10% in future to finance the expenditure on various social security measures. I do not know if the Japanese people support the tax increase, but if Hong Kong has to increase tax to support a heavy burden and the tax is likely to keep increasing in the future, I am sure Hong Kong people will raise strong objection, let alone the introduction of the sales tax. In addition, even with the tax increase, the NPS may not be sustainable. Japan has already raised the age eligible for the NPS from 60 to 65, but the public are still worried that the Japanese Government may not be able to sustain the NPS in future and has to raise the eligible age to 70. Even so, it may still be unable to pay out the pension.

On that other hand, the delinquency ratio of the NPS is very high. According to some analyses, there are signs of the hollowing out of the NPS. Though I do not have first-hand information, many information or studies point out that as many as one third of the population default on premium payment or refuse to join the NPS. Even though the NPS is a universal scheme, people who

default on premium payment do not have to bear any legal liability and they will only be excluded from the protection under the public pension protection system. Apart from poverty and unemployment that cause the default, many people refuse to pay the premium even though they can afford to do so. These people are mainly self-employed persons or young people and as pointed out by the analyses, they do not have confidence in the pension system and the Japanese economy. At the same time, many young people are unwilling to pay the premium to support the pension for the present retirees and they also fear that by the time they retire, they may no longer be able to receive any payment. I dare not say that the Japanese system is rife with problems but certainly there are a lot of problems. At least, the Japanese Government has a hard time in financing the NPS.

The reason why I spent so much time discussing the Japanese retirement system is to show Members the two sides of a coin and help them understand that while the NPS can provide certain protection for the retired elders, it will impose a very heavy burden on the whole community and many young people in Japan are unwilling to bear this burden. As a matter of fact, Hong Kong is facing the same problem of population ageing. When we study the universal retirement protection, we have to draw on the experience of Japan and introduce a plan that takes into account the economic feasibility in the long run. If a plan cannot attain long-term economic sustainability, it is still useless no matter how good it is. At the same time, we must also consider the wishes of the people, especially the wishes of the middle class and young people, and understand whether they are willing to join similar plans and make contributions.

Personally, I believe that many middle-class people or rich people do not need help from society when they retire and society should spend the resources on the needy. However, owing to the restrictive nature of the Mandatory Provident Fund (MPF) scheme, it cannot provide sufficient basic protection to the low-income and no-income groups. Hence, it is necessary to reform the retirement protection system in Hong Kong. I think Hong Kong should maintain its multi-layer and multi-pillar system, with the MPF as the major pillar and complemented by other retirement schemes, so as to provide elderly people in poverty with decent retirement protection. But the new system should be means tested to prevent abuse. However, the eligibility limits can be gradually raised and some assets, such as the deposit in the MPF account, should be exempted from calculation, so that more grass-roots people can be benefited. I believe that this direction of reform is relatively simple and workable. The

Government can take into account of its capability and concentrate the resources on helping those in need.

I so submit.

MISS CHAN YUEN-HAN (in Cantonese): President, I am also a member of the delegation. During the visit, we visited facilities for the underprivileged, such as the Yan Ji low-cost housing in Taipei City for low-income families and also Shinagawaryou in Japan for the homeless. These two places provide a series of support services for low-income persons, such as employment support. Both countries have also set the poverty line. Hong Kong has also provided such services and drawn the poverty line but there are areas that we have failed to perform well.

Through this duty visit, I would like to make observations in two areas. The first area is the social security system. Concerning the problems brought up by Mr CHAN Kin-por, I do not wish to discuss them today but will do so when we discuss retirement protection in future. I think there are many areas which Hong Kong can learn from the social protection systems in both places. Another area that I wish to observe is how to assist the underprivileged through the community economy. The underprivileged in Hong Kong do not wish to receive handouts or low-income allowance from the Government; instead they wish to find a decent job. How can we help them find a decent job through their own efforts, thereby proving their ability? This is what the Federation of Trade Unions has all along been striving for and it is also what the workers aspire most ...

MR ALBERT CHAN (in Cantonese): Since we are now discussing the issue concerning the underprivileged, more loyalist Members should be present to listen the views expressed. President, please do a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing)

MR PAUL TSE (in Cantonese): May I take this opportunity to raise a point of order which I hope the President can rule on and clarify. President, in accordance with Rule 17(2) of the Rules of Procedure, anyone can alert the President to the lack of a quorum, and when this happens the President of course must make arrangement according to the Rules of Procedure. But the relevant provision does not stipulate that in invoking the provision, one has to state any reason or make any assumption, or one can raise any criticism or make any remark directing against someone.

In this respect, if every time a Member makes a request in accordance with this provision, the President allows that Member to make a speech or even some aggressive comments, it is very inappropriate. I hope the President will take this chance to clarify whether one should speak when making a request for a headcount in accordance with Rule 17(2); and whether the President should allow the Member to make a speech or raise criticism when requesting a headcount. Thank you, President.

PRESIDENT (in Cantonese): This is an appropriate question raised by Mr TSE. When a Member draws my attention to the lack of a quorum in this Chamber in accordance with Rule 17 of the Rules of Procedure, he should not add any other comments. Let me remind Members that when they invoke Rule 17 of the Rules of Procedure to request a headcount, they should not raise any criticism or make any comment directing against someone.

MR IP KWOK-HIM (in Cantonese): President, I also wish to raise a point of order. Just now, you said that when a Member requests a headcount, he should not raise any additional conditions. But if the Member continues to speak in that way, what would you do? Is it possible to disallow the Members in question from making such request?

PRESIDENT (in Cantonese): That is not an additional condition. The point of order raised by the Member just now is related to the lack of a quorum in this Chamber. No matter what comments the Member who requests a headcount makes, the fact remains that a meeting needs a quorum to continue. I am warning Members that they should refrain from making additional comments when they invoke Rule 17 of the Rules of Procedure to call for a headcount. If

the Member continues to ignore my advice, I may consider his conduct grossly disorderly and ask him to leave the Chamber. That is all I can do. However, the fact pointed out by the Member concerning the lack of a quorum in this Chamber cannot be changed.

MR IP KWOK-HIM (in Cantonese): Then, President, can you strictly enforce the Rules of Procedure and drive the Member whose conduct is grossly disorderly out of the Chamber?

PRESIDENT (in Cantonese): This involves the President's power and duty. Under what circumstances a Member's conduct is grossly disorderly is determined by the President.

MR ALBERT CHAN (in Cantonese): President, I hope that you can, at the same time, deal with the situation that many Members do not understand the point of order and rashly raise points of order. Speaking of strict enforcement of rules, as some Members rashly raise points of order and the President also allows them to make comments, but if the points raised are not points of order, will the President also strictly enforce the rules and drive those Members out of the Chamber?

PRESIDENT (in Cantonese): There is no provision in the Rules of Procedure that disallows Members to rashly raise points of order. However, in the past, there were Members who raised some points knowing clearly that they were not points of order for the purpose of maliciously disrupting the order of this Council. I will of course handle such situations.

MR ALBERT CHAN (in Cantonese): President, will you advise those Members such as Mr CHAN Kam-lam who always raise points of order but the points they raise are very often not points of order. Under such circumstances, will you also adopt the approach as suggested by Mr IP Kwok-him, that is, for those Members who have repeatedly made mistakes in raising the wrong points of order despite the fact that you have given them chances for correction, will you strictly enforce the relevant provisions, as you have just said? Take for instance, if a Member

makes some inappropriate remarks before requesting a headcount, will you use the same yardstick to handle those Members who inappropriately raise points of order and disallow them to make inappropriate speeches?

PRESIDENT (in Cantonese): Mr CHAN, you should practise to speak concisely. If an arrangement is made in order of seriousness, I will first advise those Members who repeatedly invoke Rule 17 of the Rules of Procedure to force Members to return to the Chamber not to do so, as that is a very dangerous act, Not all Members are like me; some of them can easily succumb to the Stockholm syndrome.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Miss CHAN Yuen-han, please continue.

MISS CHAN YUEN-HAN (in Cantonese): President, I recall that when we paid the duty visit last year, Prof Nelson CHOW was conducting a study on retirement protection, and hence one of our focuses of the visit was to observe the retirement protection systems in the two places. As a matter of fact, the social security systems of both Taiwan and Japan are more comprehensive than that of Hong Kong.

Take Taiwan as an example. Taiwan has put in place three pension programmes, namely the National Pension Programme (NPP), Labour Insurance Scheme (LIS) and Labour Pension Programme (LPP). Together, they cover all Taiwanese people. The latter two are labour insurance, meaning that wage earners and their employers have to make contributions. They are similar to the Mandatory Provident Fund (MPF) in Hong Kong and the benefits belong to individual workers. The NPP, introduced in 2008, underwrites the shortfalls and offers support to citizens not covered by the LIS and the LPP. The targets of the NPP are those aged over 25 but below 65. The pensions provided for the elderly include various kinds of payments which I will not go into detail here. As regards Mr CHAN Kin-por's remarks just now, I will certainly have a thorough discussion with him when we debate on retirement protection in future.

In Taiwan, the current retirement system is comprehensive, which includes pension for wage earners and national pension for citizens who are jobless. In Hong Kong however, other than MPF for employees, the non-working population, including housewives, have no retirement protection whatsoever. In the face of an ageing population, how are we going to deal with the situation? If we do not get fully prepared, the future Comprehensive Social Security Allowance payments will become a heavy burden and this vile consequence will have to be borne by the Government and society. I hope that Honourable colleagues will pay attention to this.

In Japan, a pension system has also been put in place to provide retirement protection to its people. There are two tiers of mandatory schemes. The first tier is the National Pension Scheme (NPS) which is a universal pension scheme, providing basic retirement protection for all Japanese residents aged 65 or above. All Japanese residents reaching the age of 20 have to participate in the NPS and the premiums are equally shared by the insured and the Government. Its aim is to provide retirement protection to the self-employed, housewives and also students. The second tier is the Employees' Pension Insurance Scheme and the Mutual Aid Association Pension Scheme and, like the MPF, the contributions are equally shared between employers and employees.

The pension systems of both places share some common features. First, the Government, employers and employees have to participate in those schemes but the Hong Kong Government does not participate in any of the retirement schemes. Second, the aim of retirement protection is to benefit all people by providing them with the basic protection. However, apparently, there is no such system in Hong Kong and the authorities have no intention to put in place such a system. As Prof Nelson CHOW will soon put forward his recommendations, let us wait and see. We can draw on the experience of the pension systems in both places in formulating our own social security policy. Of course, many people would think that in so doing, it will impose financial pressures on the Government, but I think that the key lies in how to strike a balance between the two. If we do not plan in advance, society has to bear the consequences arising from an ageing and poor population, and by then the Government still cannot shirk its responsibility.

Another subject I am concerned about is community economy. Although in Japan there are big corporations and big enterprises, various regions and places still maintain their own economic activities and characteristics. There are big

department stores and at the same time there are also streets filled with small shops with their own characteristics to cater for the various needs of the people. In Hong Kong, however, shopping malls have driven street stores out of business. On the street level, we can only find chain stores of various brand names. Small shops are either forced out of business or have to move to remote places to continue their operation. Such a situation is really distressing.

We visited a street shopping district (SSD) in Kanagawa Prefecture which was formed by shop owners out of their own initiative. Together they rejuvenate the community and promote their business. A wide variety of goods are sold in the district and the shop owners lay out plans to avoid competing against one another. At the same time, the SSD also hold various events every year to attract visitors. Although Hong Kong and Japan have different cultures, as long as shop owners can join hands to co-operate more closely, I believe that much can be achieved. However, without the Government's support, the future is still bleak. Lee Tung Street is a case in point. An originally very successful "Wedding Card Street" was completely destroyed by the Government and every time I talk about it, I feel indignant.

Another successful example in Japan is the community building movement. More than a year ago, I gave books about this subject to a number of government departments but it is a shame that none of them had any response. The community building movement aims to enable local residents to participate in the promotion of district economy. Local residents will hold discussion on how to take advantage of the local environment, landscape, industries and culture, as well as historic relics, buildings, settlements, rituals, lifestyle, and so on, of their communities, and combine all these factors to form a community-oriented economic mode. Therefore, different districts in Japan have their own different styles, characteristics and sacrificial rites. Local residents can present to visitors their specific community features, complemented by various economic activities.

We always envy Japan, and young people of Hong Kong are especially fond of Japan. The great success of Japan is due to its integration of many different elements, combined with the backing of the Government. Japan is a country where you are attracted to revisit and explore other places of attraction. This is the cohesion power of the Japanese community economy that has been in existence for decades but is still going strong.

What is the role of the Government in this area? Secretary Gregory SO pointed out today that our economic industries account for more than 5%, which seems to be quite all right but in other places, they have a double digit figure. Since we have the same conditions, but why do we not do something? Therefore, I believe there is much room for development in Hong Kong's communities. The key lies in whether the Government is open-minded. I have recently joined hands with two universities to conduct a survey on on-street economy and one of the tasks is to explore how to pool together the strengths of a particular district and connect them with the historic relics or special characteristics in that district. Hong Kong has all the favourable conditions, it all depends on whether the Government allows large consortiums to monopolize everything or allows small enterprises to co-exist with large consortiums. This has been the question that I have all along put to the Government (*The buzzer sounded*) ... Thank you, President.

MR ALBERT CHAN (in Cantonese): President, please do a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, please speak.

DR PRISCILLA LEUNG (in Cantonese): President, the Subcommittee on Poverty visited Japan and Taiwan to learn about their poverty alleviation system. As a matter of fact, with the Hong Kong Government setting the poverty line at 50% of the median monthly domestic household income, it can be considered a step forward in the poverty alleviation work. I also know that according to official poverty calculation, 1.3 million people are deemed to be living below the poverty line, representing a very high poverty rate of 19.6%. For an international cosmopolitan like Hong Kong, this is unacceptable.

Arthur OKUN, the late economist of the Yale University, introduced the leaky bucket metaphor in his book *Equality and Efficiency: The Big Tradeoff*. He said that to transfer the wealth from the rich to the grassroots, it is like carrying water with a leaky bucket and large amount of water will be lost during the process. This calls to our attention that when the Government provides welfare benefits, it has to do it in the proper way in order to benefit the whole community. Therefore, when we consider poverty alleviation ... In particular, the Business and Professionals Alliance for Hong Kong always considers that the goal should not be restricted to alleviating poverty, we should also help the poor to get out of poverty. We hope that in future, more people in Hong Kong will rise from the poor class to the middle class or the Government will formulate a five-year or 10-year plan to increase the proportion of the middle class to 50% of the whole population.

At present, the middle class represents about 30% of the population in Hong Kong. In other countries, such as the United States, its middle class accounts for about 51% and in South Korea, about 53%. If we can further increase the proportion of the middle class, we can lift the grassroots out of poverty.

Many colleagues have highlighted the Japanese people's respect for the elderly. As a matter of fact, the Chinese also have great respect for their elders. We always say that "An elderly person is like a treasure to a family". In the Mainland, it is very common for grandparents to take care of their grandchildren. If the parents are still healthy, they can take care of other family members and they play a very important role in the family. However, the prevailing policies and education in Hong Kong are constantly weakening our traditional family values. Take for example the allocation of public housing. I remember that in the past, if a family had elderly members or children, it enjoyed a higher priority.

However, two years ago, we started to encourage single or young children to apply for public housing, and consequently, the elderly parents have to live alone while their children live by themselves. The Government does not have any policy to encourage the upholding of tradition family values. If single children live with their elderly parents ... I know many elderly persons who live with their single children. They cook for their children. Some elderly parents in their eighties still do the laundry for their children, but they are happy to do so for they consider that they have contributed their labour to the family, and they feel that they are still useful and capable. Therefore, they are still very healthy even in their eighties.

Just now, some Members said that Japan promotes community economy which brings about the characteristics of the community and is conducive to the development of the whole community. As a matter of fact, Hong Kong also has favourable conditions in this regard. In recent years, the communities in Hong Kong ... Recently when I visited the districts on Mother's Day and Father's Day, I saw many elderly volunteers in their seventies, eighties or even nineties, standing straight and helping to make rice dumplings. It is most amazing that some elderly volunteers are over 100 years old. Actually, many people today enjoy good health and longevity. If elderly people were seen as a burden on society, they would feel depressed as they thought they were useless. But we can help the elderly re-integrate into the community and become a new production force again. I consider this very important and to the elderly, when their productivity is recognized, they will be very happy. As the common saying goes, "Live and learn", this is not an exaggeration or something said to comfort the elderly.

The elderly volunteers that we have come into contact with work five or six hours each time to help other elderly people. In the television programme Hong Kong Loving Hearts Campaign, we learn that some elders frequently do volunteer work by paying door-to-door visit. Therefore, can a policy be formulated to provide more subsidies to volunteer groups to employ, on a regular basis, some part-time elderly volunteer workers who have reached a certain age? The elderly volunteers can thus earn some travel subsidies. To some families, if elderly parents have good physical and mental health, the burden of their children can be lightened.

Mr KWOK Wai-keung has also mentioned that if poverty alleviation is to be sustainable, revenues will certainly be needed. However, whenever Hong Kong people learn that the Government intends to increase tax and "take money out from their pockets", they will immediately react strongly. How then can we turn some services, such as healthcare and retirement services for the elderly that constitute a long-term burden, into an industry? For example, can elderly people, the silver-haired generation, be consumers and service providers at the same time? In respect of public healthcare, we always express the wish that more expensive drugs be added to the Drug Formulary to make the public healthcare system a better safety net. I always ask whether the Government can allocate \$10 billion from the surplus to public healthcare. However, it is more important to help the elderly rejoin the work force. Therefore, we have mentioned whether there will be a Guangdong Scheme. By the Guangdong Scheme, we do not mean a plan to purchase a number of residential home places

but rather a plan to encourage the establishment of a retirement industry, so as to engage the elderly people and make use of their labour again.

I have mentioned just now that the authorities can conduct a long-term planning on providing business start-up assistance for unemployed people who are not yet senior citizens or for newly retirees in their fifties. I have not seen such a policy in Japan and Taiwan and I hope that (*The buzzer sounded*) ...

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

DR PRISCILLA LEUNG (in Cantonese): ... this is a new way forward for Hong Kong. Thank you.

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

MR CHAN CHI-CHUEN (in Cantonese): I request a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(While the summoning bell was ringing, Dr CHIANG Lai-wan stood up)

PRESIDENT (in Cantonese): Dr CHIANG Lai-wan, what is your point?

DR CHIANG LAI-WAN (in Cantonese): I have been sitting in this Chamber for about an hour and at least 50 minutes have been spent on headcounts. In other words, I am being penalized to sit here for 50 minutes. I have attended various kinds of meetings but have never attended any one like this. I would like to ask the President to take note that a few opposing Members constantly request headcounts, while some other opposing Members are not present and every time the summoning bell rings, they will only return to the Chamber after the bell has

rung for over 14 minutes. President, do you think this is fair to the pro-establishment Members?

MR CHARLES PETER MOK (in Cantonese): President, can Members speak whatever they like while the summoning bell is ringing, and can they even give a speech? Many of our colleagues are having a meeting with Mr NG Leung-sing to discuss some important matters concerning the Finance Committee meeting on Friday. Hence, please do not criticize us wilfully.

PRESIDENT (in Cantonese): When there is a lack of quorum and we are waiting for Members to return to the Chamber, the meeting cannot go on.

DR CHIANG LAI-WAN (in Cantonese): We are not having a meeting. I am only communicating with the President. Can the President please ask the Members who "go nuts" and incessantly request headcounts for no reasons at all to refrain from requesting so many headcounts? Is it possible to do so?

PRESIDENT (in Cantonese): Dr CHIANG, I advise you to consider making fewer such useless remarks, especially when your microphone is making squeaky noises. I suggest Members wait quietly for the meeting to resume.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): It is now 9.25 pm. It would be impossible for us to finish all items on the Agenda before midnight. Hence I will suspend the Council around 10.00 pm until 2.30 pm tomorrow. Mr CHAN Chi-chuen, please speak.

MR CHAN CHI-CHUEN (in Cantonese): President, we all know that the Gini Co-efficient in Hong Kong is among one the highest in all developed places in the whole world, which is a sign of the gravity of the problem of wealth discrepancy in Hong Kong society. Over a long period of time, as the Hong Kong

Government has focused on the real estate and finance industries as the mainstay of economic development, it fails to care for unskilled workers by providing them with sufficient job opportunities. Consequently, they are either unemployed or only engaged in low-paid work.

In the Subcommittee on Poverty's Report on its duty visit to study the experience of poverty alleviation in Taiwan and Japan, it is mentioned in Chapters 4 and 5 that the delegation is very impressed by the promotion of the integration of community economy and poverty alleviation strategy in the two places. As a matter of fact, in recent years, different kinds of social enterprises and co-operative societies have been established in Hong Kong, their operation objectives are beneficial to the development of community economy but the Government has no policy to push forward the development of these social enterprises. For example, regarding the Enhancing Self-Reliance Through District Partnership Programme launched by the Home Affairs Department in 2006, the Audit Commission had criticized the long period taken to approve the applications, that is six months on average or even eight months, which would erode the applicants' enthusiasm and hinder the setting up of their businesses. Moreover, the Director of Audit's report also found that 21% of the subsidized social enterprises had gone out of business and the actual jobs offered by the social enterprises were also 10% to 39% fewer than the target number. The main reason for their closure was the lack of experience in running a business, manpower management skills, as well as the knowledge in information technology and relevant legal matters. The Government should invite more professionals such as lawyers and accountants to form a volunteer consultant team to offer advice to these social enterprises.

Just now, some Members, including Mr Frederick FUNG, said that some poor people would rather start up a business than being a wage earner. Some people who have been unemployed for a long time decide to take a chance and start up a business. If these people have some savings and they get some loans from relatives, their situation will still be acceptable. But for those who, being unemployed for a long time, recklessly risk everything by borrowing from financial institutions or loan sharks to start up a business, they would be heading a road of no return should their business fail. The report mentions repeatedly about community economy, but regrettably, the Government has almost no regard for that. When the economy was very sluggish in Donald TSANG's era, he had proposed to develop in the 18 districts local economy with distinctive characteristics. But of course, for Donald TSANG, words said were considered

as work done. Up till today we have not seen any development in community economy in the 18 districts.

I wish to talk about the Government's hawker policy. Actually, the SAR does not have any policy on hawkers; the only policy objective is to treat hawkers like criminals. With this mentality, the Government imposes street management to get full control of public spaces. Any person who wants to do anything on the streets, like performing, singing, dancing, making speeches, petitioning and hawking, must first obtain the Government's permission. Ironically though, conducting questionnaire surveys, which is similar to on-street frauds, and promoting insurance, credit cards and broad-band services are not under any control. The idea of street control is to standardize everything to make streets neat and clean; but in doing so, the authorities have given no thoughts to the livelihood of the grassroots, cultural conservation and social construction.

The Subcommittee on Hawker Policy set up by the Legislative Council, of which I am a member, has already held several meetings. Our aim is to urge the Government to formulate and implement a hawker policy that facilitates the development of this trade instead of a policy that only aims at managing and controlling hawkers. As a matter of fact, the promotion of hawkers' trade is also a means to alleviate poverty but it is very difficult to develop hawking business as there is no department to take up the task. The Food and Environmental Hygiene Department and the Food and Health Bureau are only responsible for managing hawkers, they do not aim at helping people get rich and get out of poverty. Therefore, if Secretary Matthew CHEUNG has the chance, he should attend the meetings of the Subcommittee on Hawker Policy and consider formulating a hawker policy from the perspective of alleviating poverty and reducing unemployment.

I have already put forward my proposal but how can we make it work? We propose that the Financial Secretary should set up a cross-bureau committee to promote the development of community economy. This committee will co-ordinate various bureaux and departments to implement creative projects relating to community economy. This committee should provide a convenient one-stop service for those interested in promoting community economy and encourage them to participate in the process of development. It has to formulate short-, medium- and long-term hawker development policies to break the inherent mentality of various bureaux and departments. The bureaux and departments never communicate among themselves and neither do they join hands in solving

problems; they just undertake the tasks within their ambit. Even if their work fails to attain any effective results, they do not have to bear any responsibility. The authorities should also consider making use of the vacant Government lands in various districts to establish some Hawker Permitted Areas, they should issue more hawker licences and allow hawkers to operate in such designated areas. The establishment of Hawker Permitted Areas can provide the grassroots with the opportunity to start up a business and also enhance the local characteristics of the districts concerned, thus promoting community economy.

Speaking of poverty alleviation, many pro-establishment Members will say that it is better to teach the poor to catch fish than give them fish. I do not object to this principle, but we have to see if there are fish in the pond for people to catch. If there is no fish in the pond, before the poor people can learn the skill to catch fish, we have no choice but to actually provide them with money, that is, fish, which is also a poverty alleviation measure. Of course (*The buzzer sounded*) ... if one day they have the skill to catch fish and there are also plenty of fish in the pond, they can get out of poverty.

PRESIDENT (in Cantonese): Your speaking time is up. Does any other Member wish to speak?

MR CHAN CHI-CHUEN (in Cantonese): I request a headcount.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr Alan LEONG, please speak.

MR ALAN LEONG (in Cantonese): President, after the delegation of the Subcommittee on Poverty (Subcommittee) had conducted the duty visit to Taiwan and Japan, the SAR Government set the poverty line and introduced the

allowance for low-income households in September 2013 and earlier this year respectively in the hope of addressing the problem of working poverty. Of course, many details concerning the two aforementioned policies still need to be clarified and hence before the actual implementation of the policies, I believe that there are still much room for improvement, so that the policies can really help more people living in poverty in Hong Kong.

First of all, I have to thank the Taipei Economic and Cultural Office in Hong Kong for its efforts in making prior arrangement for our visit and also the Hong Kong Economic, Trade and Cultural Office (Taiwan) for its assistance. Owing to their help and logistics arrangements, we were able to carry out our visit as planned. Also, the assistance provided by the Secretariat of the Legislative Council was also vital in ensuring the success of our visit. Here, I would like to take the opportunity to thank all of them.

President, as a matter of fact, Hong Kong has never provided much assistance to low-income families. According to the Hong Kong Poverty Situation Report 2012 published by the Commission on Poverty, 140 000 working households, a population of close to half a million, are living under the poverty line and they have not received the Comprehensive Social Security Allowance (CSSA). Many working members of these households are working full-time but they can barely make ends meet and have difficulties in providing for the members in their families. Therefore, if we can implement the Low-income Working Family Allowance more effectively and efficiently, it will be of great help to them.

Regarding this duty visit of the Subcommittee, I would like to raise a few points that are worthy of consideration by officials responsible for poverty alleviation. Actually, poverty alleviation should not be too rigid, it also needs creativity. For example, in Taiwan there is a programme called "Holding Hands". The idea is to recruit youngsters from low-income families who are old enough to provide after-school care services for children from other low-income families. This is a rather good idea that we can learn from. There is another scheme known as child development fund account programme. The idea is that if parents deposit \$1 in the account, the Government will also deposit \$1. The merit of this programme is that parents of low-income families will not have the feeling that they are totally dependent on public money to pay for their children's education as they have also make contribution. I find this idea of \$1 for \$1 very good.

Another concept which is new to Hong Kong is low-interest or interest-free loan. As it is a loan, it must be repaid; hence psychologically, low-income families will be more ready to accept the loan. As the common saying goes, "people who return what they have borrowed are upper-class people". It may make them feel better as they are not "sticking out their hand" to collect CSSA paid by public money. This is a rather good idea.

Moreover, as mentioned in the report, Japan has a very systematic way of helping the homeless. The President may also know that Hong Kong does not even have a register of the homeless; hence we have no idea of the number of homeless people. But Japan tackles the problem by centralized co-ordination. Apart from finding out the exact number of the homeless people, the authorities also identify the strengths of these people to see how to give them training so that they can stand on their own feet. Moreover, the authorities also follow up on the homeless people and provide them with temporary shelter. If they suddenly lose their job and become homeless again, the authorities will also send staff to look after them during that period to prevent them from moving back to the street again. Secretary Matthew CHEUNG should carefully consider the abovementioned measures.

I think the duty visit has greatly inspired me. Many of the ideas have already been stated in the report. I hope the authorities will give them careful consideration and formulate a more comprehensive policy to alleviate the poverty problem in Hong Kong and help more people in need.

I so submit.

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

MR ALBERT CHAN (in Cantonese): President, do not worry, I am not requesting a headcount. I just wish to speak because I know that everyone likes to hear my voice.

President, this debate is on the report submitted by the delegation of the Subcommittee on Poverty on its duty visit to study the issue of poverty alleviation. Regarding the recommendations listed out in the report, I believe that the Secretary will passionately, sympathetically and cordially respond later

on, telling us that the Government is making great efforts in poverty alleviation. That is the Secretary's characteristic. However, I believe that a decade later, the poverty problem will remain as grave as today and the plights of the poor will remain as dire. Secretary Matthew CHEUNG has been in this post for quite some time and comparing the hardships of the poor in Hong Kong when he first took office and their situation now, I am certain that their hardships have increased instead of being alleviated, especially in terms of housing and livelihood. Seeing that the homeless are still on the streets and elderly persons are still collecting cardboards, we have an idea of what the real situation is like.

President, why are there such problems? For years, many committees of the Legislative Council had written many reports after their duty visits and had put forward many recommendations to the Government. How come nothing had been mentioned about those recommendations? Looking back at the last 20-odd years, let us not talk about the British Hong Kong era, but just concentrate on the period after the establishment of the SAR Government, I believe that the number of committee reports submitted is so numerous that one will take more than three days and three nights to go through all of them. They involve a wide variety of topics such as development, economy, social welfare, labour and transportation. The committees had also made many recommendations regarding those issues and had drawn reference from numerous good practices of overseas countries.

Not only Members had conducted duty visits, the Government had also done so. It was most laughable that shortly before Donald TSANG left office, he visited Japan and when he returned, he told us how Japan separated the waste at source, as if he had made some new discoveries. However, either the Legislative Council or the two former Municipal Councils — I joined the Urban Council in the 1980s — had studied those subjects before. The subjects we observed in 1988 were exactly the same stuff talked about by Donald TSANG before he left office. Numerous reports had been submitted to the Government in this Council but all of them ended up like stones dropped into the sea.

This is a matter concerning the system. For example, many incumbent Members are former members of the two Municipal Councils. During those years, when members of the Urban Council or the Regional Council paid a duty visit, the accompanying officials, especially if they were senior officials from the two municipal services departments, would implement the recommendations stated in the duty visit report. That was because the Regional Council and

Urban Council had the power to formulate policies and allocate funds. At present, the Legislative Council has no real power and can only make comments. I always think that for such a political entity in Hong Kong, the Legislative Council's delegations are actually schizophrenic. They make comments on their own and the Government also makes comments on its own. As regards the incumbent Government, the ambit of Secretary Matthew CHEUNG absolutely fails to address the poverty or poverty alleviation problems because poverty alleviation work straddles many areas, namely housing, social affairs, environmental hygiene, taxation, economy and medical care, which cannot be decided and handled by Secretary Matthew CHEUNG alone.

Therefore, if no improvement is made to the system, the present situation and problems will remain indefinitely. Ten years from now, if the Legislative Council organizes delegations to pay duty visits again, their destinations may include places in our great Motherland because rapid changes might have been made. Over 10 years ago, I remarked that the economy in the Mainland was developing in leaps and bounds but Hong Kong's economy was going nowhere, especially in respect of community economy that it promoted. The community economy will for certain drag Hong Kong back and will continue to pull Hong Kong down. This is the problem with the system. In respect of home affairs, even though any places and countries have the real power to rule their villages and towns, including controlling the economic development, the disposal of land and taxation, the District Councils have no control over community economy and land. Therefore, without making improvement to the system, all these problems will still exist.

Another problem relates to the Legislative Council Members, especially members of the delegation. They participate in the duty visit because they are concerned about the problems and the recommendations they put forward after the visit will certainly address the problems. Those recommendations are also accepted by the relevant Subcommittee. However, the Government acts differently. If you tell "689" your recommendations, he couldn't care less; if you tell the Financial Secretary "Moustache TSANG", as he is a fervent believer of positive non-intervention, he will not accept the Subcommittee's recommendations; and if you tell Anthony CHEUNG, he will treat your recommendations as dirt because he has his own problems to worry about. Therefore, with all these problems brought by the present system, the composition of the Subcommittees, the recommendations put forward and the actual operation of the Government structure, one is like wringing water from a

flint if he expects the Government to accept the recommendations of the Subcommittee. This problem will never be alleviated or resolved.

Therefore, President, if the system remains unchanged, I do not see how this problem can be alleviated. We have repeatedly said that unless the whole system is overhauled, including democratization of the Chief Executive election and the Legislative Council election, then Members will have the same set of values and mentality and it will be easier for them to forge a consensus when dealing with the problems; otherwise the poverty problem will only continue to deteriorate and ordinary people will continue to suffer.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend this meeting until 2.30 pm tomorrow.

Suspended accordingly at Ten o'clock.