

# OFFICIAL RECORD OF PROCEEDINGS

**Wednesday, 4 December 2013**

**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 LEUNG KWOK-HUNG

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 GARY FAN KWOK-WAI

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

DR THE HONOURABLE KENNETH CHAN KA-LOK

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

**MEMBER ABSENT:**

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE MRS CARRIE LAM CHENG YUET-NGOR, G.B.S., J.P.  
THE CHIEF SECRETARY FOR ADMINISTRATION

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

THE HONOURABLE RIMSKY YUEN KWOK-KEUNG, S.C., J.P.  
THE SECRETARY FOR JUSTICE

MR YAU SHING-MU, J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE TSANG TAK-SING, G.B.S., J.P.  
SECRETARY FOR HOME AFFAIRS

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

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

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

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

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE EDDIE NG HAK-KIM, S.B.S., J.P.  
SECRETARY FOR EDUCATION

THE HONOURABLE PAUL TANG KWOK-WAI, J.P.  
SECRETARY FOR THE CIVIL SERVICE

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

THE HONOURABLE WONG KAM-SING, J.P.  
SECRETARY FOR THE ENVIRONMENT

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

MS CHRISTINE LOH KUNG-WAI, J.P.  
UNDER SECRETARY FOR THE ENVIRONMENT

MR GODFREY LEUNG KING-KWOK  
UNDER SECRETARY FOR COMMERCE AND ECONOMIC  
DEVELOPMENT

### **CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MR ANDY LAU KWOK-CHEONG, ASSISTANT 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)

## 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>
Waste Disposal (Designated Waste Disposal Facility) (Amendment) Regulation 2013 .....	188/2013
Waste Disposal (Refuse Transfer Station) (Amendment) Regulation 2013.....	189/2013
Public Health and Municipal Services Ordinance (Public Pleasure Grounds) (Amendment of Fourth Schedule) (No. 2) Order 2013 .....	190/2013
Professional Accountants (Amendment) Ordinance 2013 (Commencement) Notice.....	191/2013

### Other Paper

Report No. 6/13-14 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

**PRESIDENT** (in Cantonese): Honourable Members, as all of you must be aware, since quite many items of business have to be dealt with in this meeting, I reckon that not all items of business on the Agenda can be disposed of by tomorrow evening. As some activities have already been scheduled for different periods tomorrow and the day after tomorrow, I intend to suspend this meeting at 12 pm

tonight until 2.30 pm tomorrow in the hope that the debate on the Member's motion on "Establishing a low-income subsidy system" can be concluded before the suspension of the meeting tomorrow evening until 9 am on Friday for, hopefully, the completion of all Agenda items by 2 pm. Otherwise, the meeting will have to be resumed at 7.30 pm on Friday after the conclusion of the Finance Committee meeting until all business items have been dealt with.

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

**PRESIDENT** (in Cantonese): Questions. Apart from six oral questions for this meeting, I have permitted Mr CHAN Kam-lam and Dr KWOK Ka-ki to respectively ask an urgent question under Rule 24(4) of the Rules of Procedure.

First urgent question.

### **Immediate Measures to Ensure Personal Safety of Hong Kong Travellers in Thailand**

1. **MR CHAN KAM-LAM** (in Cantonese): *President, it has been reported that recently, the political situation in Thailand has deteriorated rapidly, with anti-government demonstrators attempting to occupy the government headquarters in Bangkok, the capital, and paralyse the Government's operation. There was even a shooting incident last weekend, resulting in five dead and 57 injured, and the Thai Government immediately imposed "curfew" in Bangkok. Besides, the Travel Industry Council of Hong Kong indicated that as at Monday of this week, about 40 group tours, totalling about 1 000 Hong Kong people, still stayed in Bangkok. There are worries about their personal safety, and so far only some travel agencies have announced suspension of the departure of group tours. Some members of the tourism industry have pointed out that unless the authorities have issued a black Outbound Travel Alert (OTA) for Thailand, quite a number of people who have enrolled in group tours will travel to Thailand in the coming period (especially during the travelling peak season in Christmas). In this connection, will the Government inform this Council:*

- (a) *of the authorities' current assessment of the situation in Thailand (especially in Bangkok); whether the OTA for Thailand will be raised to the black alert so that the relevant government departments*



*and travel agencies will expeditiously adopt corresponding measures to protect the personal safety of Hong Kong people who are staying in or going to travel to Thailand; whether the Government has discussed with the travel agencies about raising the OTA and suspending the departure of group tours to Thailand;*

- (b) *whether the Government knows the number of Hong Kong people who are still staying in Bangkok at present, including the number of people who are travelling in group tours and that of independent travellers; of the measures currently adopted to provide instant safety information and assistance proactively to travel agencies and independent travellers; whether the Immigration Department (ImmD) has looked into the requests for assistance from Hong Kong people in Thailand through the Office of the Commissioner of the Ministry of Foreign Affairs (OCMFA) in Hong Kong and the Chinese Embassy in Thailand; and*
- (c) *whether the authorities have made preparation in case of further deterioration of the situation in Bangkok which results in emergencies, actions can be taken immediately, including providing chartered flights to carry Hong Kong people back to Hong Kong and sending ImmD's officers there to provide Hong Kong people with assistance?*

**SECRETARY FOR SECURITY** (in Cantonese): President, my reply to the three parts of the question is as follows:

- (a) The Hong Kong Special Administrative (HKSAR) Government has been closely monitoring the situation in Thailand. Since early November this year when a number of large-scale demonstrations took place in Thailand, the Security Bureau has been gathering information on the local situation through different channels, including the Office of the Commissioner of the OCMFA in Hong Kong, the Chinese Embassy in Thailand, the Thai Consulate-General in Hong Kong, the travel industry and the media. We have also made reference to the travel information and alerts issued by other countries.

In view of Thailand's latest situation which may change shortly, we have uploaded the latest situation onto the Security Bureau's OTA webpage. We have also notified residents who have registered their itineraries and contact details through the ImmD's Registration of Outbound Travel Information (ROTI) service and the GovHK Notifications Apps. For example, on 25 November, the Thai Government implemented the Internal Security Act in Bangkok and surrounding areas empowering the officials and military to take emergency measures including the imposition of curfew in serious cases; on 30 November and 1 December, violent clashes, including gunshots, occurred in the area of Ramkhamhaeng University in northern Bangkok, resulting in casualties; in the evening of 1 December 2013, the Thai Government urged people in Bangkok to stay indoors from 10 pm on 1 December to 5 am on the following morning for safety reasons. The HKSAR Government has informed Hong Kong residents these developments through the abovementioned channels.

In view that the situation in Thailand (Bangkok) remains tense with the possibility of deteriorating, which shows no sign of early resolution, the HKSAR Government decided to raise the OTA for Thailand (Bangkok) to Red at noon on Monday (2 December). Residents intending to visit Bangkok should adjust their travel plans and avoid non-essential travel. Those already there should monitor the situation, attend to personal safety and avoid protests and large gatherings of people. The OTA for other parts of Thailand remains at Amber.

The Security Bureau will continue to closely monitor the latest situation and review the OTA for Thailand and Bangkok. Any update will be issued through the media, the Bureau's OTA webpage and the GovHK Notifications Apps.

- (b) According to the latest information from the Hong Kong Travel Industry Council, as at today, there are 23 Hong Kong tour groups with about 461 members in Bangkok/Pattaya/Hua Hin. We will continue to disseminate the latest information through the media, the Bureau's OTA webpage and the GovHK Notifications Apps.

Since the HKSAR Government raised the OTA for Thailand (Bangkok) to Red at noon on Monday, the ImmD has issued updated information to 423 residents who have registered under the ROTI and are currently in Thailand or intend to travel to Thailand this month. We encourage residents to register their itineraries and contact details through the ROTI before departure so that the ImmD can disseminate practical information to them on a timely basis when necessary.

The ImmD has been obtaining the latest situation through the OCMFA and the Chinese Embassy in Thailand. To date, the Chinese Embassy has received one assistance request from a Hong Kong resident who has lost contact with his friend in Bangkok but has soon re-established contact. The ImmD has not received any assistance requests to date.

- (c) The Security Bureau has formulated a Contingency Plan for Emergency Response Operations outside the HKSAR for providing assistance, in accordance with the contingency plan, to Hong Kong residents whose personal safety is affected by large-scale natural disasters or sudden incidents outside Hong Kong. When Hong Kong residents encounter large-scale incidents abroad, we will maintain close contacts with the OCMFA and the local Chinese Diplomatic or Consular Missions to provide practical assistance to them.

The contingency plan covers the assessment of whether normal flight operations are able to effectively address the demands of stranded Hong Kong residents wishing to return in case of emergency. When necessary, we will contact major local airlines to reserve certain seats ("reserved seats") or charter special flights ("chartered flights") to bring back stranded Hong Kong residents if possible.

It is worth mentioning that there is no direct linkage between whether "reserved seats" or "chartered flights" would be arranged and the issue of an OTA by the Security Bureau. The former depends on whether normal flight operations are able to effectively respond to the demands of bringing back stranded Hong Kong residents under special circumstances. The OTA, on the other

hand, serves to provide an appropriate alert to Hong Kong residents, based on the risk assessment and threats to personal safety of Hong Kong residents in the event of major incidents.

**MR CHAN KAM-LAM** (in Cantonese): *Secretary, the tensions in Bangkok might ease slightly as certain demonstrations there will cool down in celebration of the birthday of the King of Thailand. In light of the experience gained over the past years, however, confrontations between "red shirt protesters" and "yellow shirt protesters" would invariably lead to coups or bloodshed, which would in turn trigger riots all over the country. President, travel alerts issued by the Government are extremely important information for travellers in general and mean a lot to them, too. The Secretary has also made it very clear in the main reply that the situation in Bangkok may deteriorate in the coming period. Will the Secretary inform this Council under what circumstances the Government will decide to raise the OTA to Black?*

**SECRETARY FOR SECURITY** (in Cantonese): The existing OTA system is classified into three levels, namely Black, Red and Amber. When the highest alert, the Black OTA, is in force, all travel should be avoided. It is issued only when the circumstances are very bad. When the Red OTA is in force, non-essential travel should be avoided. For instance, outbound group tour travel is not considered by everyone as essential. However, urgent overseas duties might be considered by some people more essential. Hence, the Black OTA, the highest alert, implies that members of the public should avoid visiting the relevant places under all circumstances. The Red OTA means that members of the public are advised to avoid travel if possible. Finally, the Amber OTA implies that members of the public should pay attention to the situation. These three travel alerts are not unique to Hong Kong because a similar alert system is in force in other parts of the world as well.

Perhaps let me cite an example. In this incident, as I mentioned just now, we have been closely monitoring the situation in countries or places where an OTA system is in force, information on their assessment of the situation in Thailand, and the travel alerts already issued. To date, travel alerts higher than general warnings for Bangkok have only been issued in two places, namely Hong Kong and Taiwan. In Hong Kong, the travel alert was issued at noon on the day before yesterday. In Taiwan, the travel alert was upgraded later that day from

grey to yellow, though it is not exactly the same as Hong Kong's Amber alert but somewhere between our Amber and Red alerts. In most of the other countries, a yellow alert rather than a red one is still in force. Some individual countries have only issued warnings rather than alerts for Bangkok.

**MR WONG KWOK-HING** (in Cantonese): *President, many members of the public in Hong Kong are very concerned about the situation in Thailand and query why the Administration does not issue a Black OTA to enable people who have enrolled on group tours to have their air ticket, hotel and tour fees refunded, so that non-essential travel to Thailand can be avoided. Hence, the Government is suspected of colluding with business in favour of the interests of tourism operators, hotels and airlines. In addition to the occurrence of an incident in Thailand last weekend, which resulted in five deaths and 57 people injured, the Thai Government has also announced the implementation of the Internal Security Act in Bangkok for the imposition of curfew. Under such circumstances, may I ask the Secretary why a Black OTA is not issued to enable members of the public in Hong Kong to claim refund of their group tour, air ticket and hotel charges?*

**SECRETARY FOR SECURITY** (in Cantonese): With regard to Mr WONG's supplementary question, I would like to point out that travel agencies in Hong Kong are governed by a set of guidelines which provides that they should assist people who have enrolled on group tours in claiming refund, and so on, for reasons beyond control. Under Resolution no. 177 of the Directives issued by the Travel Industry Council of Hong Kong, "reasons beyond control" cover red/black OTAs issued by the Hong Kong SAR Government. In other words, travel agencies in general will cancel tours once a Red OTA is issued.

We can tell from our past and the current experience that group tours to Bangkok would be cancelled by travel agencies after the issuance of the Red OTA. As regards the large-scale demonstrations that occurred in Bangkok, as mentioned by Mr WONG just now, and even the violent clashes that occurred in the suburbs and caused casualties subsequently, I must point out here that, insofar as this incident is concerned, the demonstrators have gathered mainly at government buildings whereas tourist districts in general remain unaffected. We can actually see from television reports, just as the information constantly provided to the media by many people in the tourism industry, the tourist districts remain unaffected. The incident resulting in casualties in the evening actually

occurred outside the venue of a meeting attended by people of a certain camp in the suburbs of Bangkok, where ordinary tourists, not confined to Hong Kong people, will not visit. Hence, when we look at the whole situation, we have to consider not only what has happened in general, but also the places Hong Kong people will usually visit in Thailand and whether their personal safety will be affected, such as whether the general flight operations are normal when they return to Hong Kong. A host of factors will be taken into consideration by us. Besides Hong Kong, other countries will consider these factors, too.

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

**MR WONG KWOK-HING** (in Cantonese): *President, regarding the Government's refusal to issue a Black OTA, I have pointed out in my supplementary question that members of the public have queried whether the Government is colluding with business in favour of the interests of tourism operators, hotels and airlines. However, the Secretary has not answered this question. Does it mean that the Government will not issue a Black OTA so long as there are no casualties of Hong Kong people?*

**PRESIDENT** (in Cantonese): Mr WONG, please do not give any comments. The Secretary's response to your allegation just now was already very comprehensive.

**MR YIU SI-WING** (in Cantonese): *Whenever serious incidents or natural disasters occur in places outside Hong Kong, the situation there will become a great concern to Hong Kong people who are already there or travellers poised to depart for those places.*

*May I ask the Secretary through what channel or mechanism the Government can learn about the actual situation there in order to determine the level of OTA to be issued when the situation is deteriorating?*

**SECRETARY FOR SECURITY** (in Cantonese): President, we have many varied channels, with local Chinese Diplomatic or Consular Missions being the

most direct channel. Since these Missions are stationed in those places, a lot of information can be acquired through them by various means. Very often, we will contact them direct.

Furthermore, we can certainly gather information by paying attention to the news reports of many countries and regions around the world, because they will also be watching these incidents closely and disseminate information on various aspects on a timely basis. If the television news reports of certain places can be viewed instantly in Hong Kong, we will keep track of them, too. We will gather all the information collected for analysis before making a decision.

**MR MA FUNG-KWOK** (in Cantonese): *It is mentioned in the main reply that the Hong Kong Government will inform Hong Kong people through the GovHK Notifications Apps. Can the Government explain the contents of the GovHK Notifications Apps? How can the Apps assist Hong Kong people who are outside Hong Kong?*

**SECRETARY FOR SECURITY** (in Cantonese): My thanks go to Mr MA Tung-kwok for his supplementary question. The GovHK Notifications Apps can now be downloaded free of charge into our smart phones. Members can see that this is the page of the GovHK Notifications Apps, in which instant information provided by a number of government departments is included. After downloading the GovHK Notifications Apps, members of the public can add the "Push" function for requests to be made for the viewing of selected information. When new information is available, a signal will automatically appear to notify the users.

With the inclusion of the Assistance to Hong Kong Residents Unit of the ImmD and the Security Bureau in the GovHK Notifications Apps, whenever an OTA is issued for a country or region, be it Amber, Red or Black, it will be shown when the information is updated. In this incident, for instance, upon learning the fatal conflict that occurred in the evening, the Government immediately updated the information through the GovHK Notifications Apps for viewing by members of the public who have downloaded the Apps. Members can see in this simple picture that such information has been updated a couple of times recently, so that the latest information can be obtained by members of the public through the Apps. This is a relatively direct channel through which the

public can acquire information through their mobile phones after downloading the Apps.

Certainly, other channels are also available, such as the dissemination of information through press releases. Furthermore, when a Red or Black OTA is in force, the public will be notified at the airport through the device already put in place, and travel agencies are also required to notify people who have enrolled on group tours that a Red or Black OTA has been issued for their destination.

**DR ELIZABETH QUAT** (in Cantonese): *The current situation is very chaotic because some travel agencies have suspended their group tours but some others have proceeded with their departures. Hence, many people are concerned about whether they should proceed with their departures. Besides the concern about group tours, there are actually many independent travellers, too.*

*May I ask the Secretary, besides the ROTI service, whether the Government has put in place any measures to collect contact information on Hong Kong people who are prepared to go to Thailand and made any preparations to provide people who are in Thailand with safety information and measures in case of emergency?*

**SECRETARY FOR SECURITY** (in Cantonese): As pointed out by Dr QUAT just now, the ImmD has provided a service whereby members of the public are urged and invited to register online the places and dates of their future travel. Insofar as this incident in Bangkok, Thailand is concerned, 455 Hong Kong people in total have registered for this service. The registered persons were immediately notified by the ImmD through emails or short messages immediately after the upgrading of the OTA to Red.

We consider this service very useful because we could contact a person direct when we knew that he or she had travelled to Thailand. However, we can certainly not require all people to notify the Government before they travel to certain places because it is personal privacy, and Hong Kong people are entitled to freedom of entry into and exit from the territory. Nor will we act in this manner. What we should do is to provide the public with a platform and encourage them to register. If they are concerned about the possible occurrence



of problems in the places they will visit, they can register at any time to enable us to notify them expeditiously. As it is common for people to have a mobile phone nowadays, and they will very often activate the roaming service when travelling outside Hong Kong, we can offer them assistance by this means. Certainly, in times of great emergency, we will try to find out, having regard to the prevailing conditions, the number of people affected in a certain place and contact them through other channels.

**PRESIDENT** (in Cantonese): Dr Elizabeth QUAT, what is your point?

**DR ELIZABETH QUAT** (in Cantonese): *Under general circumstances, the Secretary's remark certainly ...*

**PRESIDENT** (in Cantonese): Dr QUAT, please do not give any comments. If you think that the Secretary has not answered your supplementary question, you need only repeat the part not answered.

**DR ELIZABETH QUAT** (in Cantonese): *President, the part not answered is, besides the service provided upon the public's registration of their travel information, as mentioned by the Secretary just now, whether measures are in place to contact Hong Kong people who are in Thailand to provide assistance to them in case of emergency?*

**PRESIDENT** (in Cantonese): The Secretary has already answered this question. Let me see if the Secretary has anything to add.

**SECRETARY FOR SECURITY** (in Cantonese): Except for Thailand, there were a couple of emergency cases in other places, too. For the purpose of notifying the people in those places, we had attempted to liaise with telecommunications companies to ascertain the number of people who had activated the roaming function of their mobile phones in those places. Certainly, we did not mean to obtain their information from the telecommunications

companies. The companies were only requested to issue short messages on our behalf to notify them of the latest situation.

**MR YIU SI-WING** (in Cantonese): *It has been reported that the Government has been too slow and unresponsive in issuing the Red OTA this time around. Will the Government review its approach of issuing OTAs in the future in the light of this incident?*

**SECRETARY FOR SECURITY** (in Cantonese): As I have mentioned repeatedly just now, we have assessed various circumstances before deciding whether the OTA should be issued. As regards whether the Government has been too slow and unresponsive, I believe Members might have different views on the incident. I would like to point out the objective fact that many countries and regions around the world have issued travel alerts of different levels for Thailand. To date, the travel alert issued by Hong Kong is the highest.

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

### **Emergency Measures to Deal with a Possible Outbreak of Avian Influenza Epidemic**

2. **DR KWOK KA-KI** (in Cantonese): *President, the first case of human infection of avian influenza A(H7N9) in Hong Kong, which was confirmed on the 2nd of this month, has aroused public concern. The patient concerned had physical contact with chickens while she was on the Mainland, where an H7N9 avian influenza epidemic broke out during the spring season this year, resulting in 139 infected cases in which 45 people died. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed the risk of an immediate outbreak of H7N9 avian influenza epidemic in Hong Kong; if it has, of the assessment results; if not, the reasons for that;*
- (b) *it has put in place any emergency measures to counter the H7N9 avian influenza epidemic in case of such an outbreak, including*

*measures to handle local live poultry, quarantine arrangements for poultry imported from the Mainland, epidemic prevention measures at boundary control points (including body temperature checks, health declarations by arriving and departing travellers, and so on), as well as issuing travel alerts and setting up an inter-departmental working group for co-ordinating efforts and conducting drills; if it has, of the conditions under which the various measures will be implemented and their details; if not, how the Government ensures that the epidemic will be under control; and*

- (c) *it has put in place any medical preparations to counter an H7N9 avian influenza epidemic, including case identification check-ups at out-patient clinics as well as accident and emergency departments, infection control and isolation measures in hospitals, as well as clinical and medication guidelines; if it has, of the implementation details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, on 31 March 2013, the National Health and Family Planning Commission (NHFPC) notified the first confirmed human cases of avian influenza A(H7N9). As at 2 December, a total of 139 human cases of avian influenza A(H7N9) have been confirmed in the Mainland across 10 provinces and two municipalities, including two cases in Guangdong. In addition, the health authorities of Taiwan also reported one imported case from Jiangsu.

On 2 December 2013, Hong Kong confirmed the first human infection with avian influenza A(H7N9) virus. On the day of confirmation, the Government escalated the response level under the Preparedness Plan for Influenza Pandemic from "Alert" to "Serious". On 2 and 3 December respectively, I chaired the Serious Response Level Steering Committee to co-ordinate the response measures by relevant bureaux and departments. We note that some press reports have alleged a delay in the identification of the case of avian influenza A(H7N9). I would like to clarify that the Hospital Authority (HA) took specimens of the patient on 28 and 30 November 2013 respectively for preliminary rapid tests, but the results were negative. On 2 December 2013, the HA did further tests on the patient and the results were only confirmed positive at the time.

- (a) According to epidemiological and laboratory investigation, contact with infected poultry or visiting wet markets with live poultry are important risk factors of human infection caused by the avian influenza A(H7N9) virus. At present, there is no evidence showing that avian influenza A(H7N9) virus can cause sustained human-to-human transmission, and the risk of community outbreaks remains low.

As regards the confirmed case in Hong Kong, according to our preliminary investigation, we believe it is likely an imported sporadic case. A number of people who have had close contact with the patient have received rapid testing and the results so far have been negative.

We will continue to closely monitor the developments and continue to investigate the source of infection and mode of transmission of the case, in order to conduct risk assessment in greater detail.

- (b) and (c)

The Government has been adopting the Preparedness Plan for Influenza Pandemic in taking measures for preparedness and response in case of an influenza pandemic. The document defines the response levels, the corresponding command structures to be set up, and measures to be taken. To make better preparations for influenza pandemic, ongoing preventive measures adopted by the Government include:

- (i) **Enhanced Surveillance:** Influenza A(H7) is a statutorily notifiable disease and the virus is a scheduled infectious agent under the Prevention and Control of Disease Ordinance (Cap. 599). Any suspected or confirmed cases are required to be notified to the Centre for Health Protection (CHP) of the Department of Health (DH). On the other hand, the CHP works with the HA and private hospitals to enhance laboratory testing. The DH also reviews its laboratory diagnostic strategy, enhances diagnostic service capacity, stockpiles necessary reagents and strengthens liaison with overseas counterparts on collection of updated information.

- (ii) Liaison with other health authorities: All along, the CHP maintains liaison with the World Health Organization (WHO), the Mainland and overseas health authorities to monitor the latest development, obtain timely and accurate information from places outside Hong Kong, and will modify local surveillance activities according to recommendations issued by the WHO.
- (iii) Enhanced Port Health Measures: The DH has implemented a series of port health measures, including the display of posters about the disease at all boundary control points, delivery of health leaflets to arriving travellers coming from affected places, regular updates to the tourism industry through meetings and correspondences, enhanced surveillance of sick travellers and referral of suspected cases to public hospitals for further investigation. The DH will continue to monitor and follow up on relevant recommendations on port health measures made by the WHO.
- (iv) Prompt Control and Transparency in Dissemination of Results: Any suspected case fulfilling the reporting criteria and notified to the DH will be immediately isolated in a hospital setting. Specimens from the patient will be sent to the Public Health Laboratory Services Branch of the CHP for testing. The DH will release any positive testing results to the public as soon as possible.
- (v) Infection Control in Healthcare Settings: The DH has provided guidelines on infection control to healthcare professionals, residential care homes and schools. It has also organized training to provide updated information to healthcare workers. Moreover, the DH has collaborated with the HA to set up a referral mechanism for cases from private sectors. The DH has also urged the management of all private hospitals to be vigilant and to enhance their preparedness against the disease. They are advised to review and update the infection control guidelines and contingency plans in view of the latest development of the disease, and to ensure sufficient stock of personal protective equipment. Briefings for the hospital

management and the healthcare workers have been arranged to provide them with the latest information on the disease and training on the related infection control measures.

- (vi) **Enhanced Risk Communication:** The DH promulgates in press releases/public announcements that travellers returning from places affected by the disease presenting with respiratory symptoms are advised to wear face masks, seek medical attention and reveal their travel and contact history to doctors. The DH also provides updates on the disease and health advice to members of the public.
- (vii) **Publicity and Public Education:** The DH has organized various health education activities and provided health advice on the prevention of the disease, personal hygiene and environmental hygiene, targeting the general public as well as specific sectors of the community. The DH has reminded and will continue to remind members of the public to take heed of personal hygiene, especially washing hands. A dedicated page has been set up on the CHP website which carries the latest information on the disease, guidelines for different sectors of the community and health advice. There is also a communication plan in the HA which includes staff forums, designated infectious disease information corners, establishment of a website, and so on.
- (viii) **Contingency Plan and Drills for Concerted Interdepartmental Actions:** The DH will continue to update contingency plans on major outbreaks of infectious diseases, as well as conduct inter-departmental exercises and drills with concerned parties and stakeholders in close partnership. The HA's designated contingency plans are in place. Since its establishment in 2004, the CHP has organized 13 exercises testing the preparedness and responsiveness of relevant departments on public health actions.

In connection with the first confirmed case of human infection of avian influenza A(H7N9) in Hong Kong, the Serious Response Level Steering Committee set up under the Preparedness Plan for

Influenza Pandemic held a discussion and decided to, in addition to strengthening various ongoing measures, adopt special measures as follows:

- (i) The CHP has taken immediate action and successfully located 17 close contacts and more than 200 other contacts of the first case. Seventeen close contacts of the patient have been quarantined and prescribed with Tamiflu prophylaxis. Close contacts without symptoms will be arranged to stay in non-hospitalized quarantine facilities. The Lady MacLehose Holiday Village of the Leisure and Cultural Services Department in Sai Kung has been converted as a quarantine centre and is ready to receive asymptomatic close contacts.
- (ii) The HA has also activated the Serious Response Level in public hospitals since 3 December. Front-line hospital staff at accident and emergency departments and general out-patient clinics are reminded to stay vigilant to patients seeking consultation at public hospitals. Enhanced surveillance and patient triage guidelines are in place to ensure timely reporting and early arrangement of clinical tests. More stringent infection control measures are enforced in public hospitals, which include restrictions on visiting. Visitors to public hospitals and clinics are now required to put on surgical masks and perform hand hygiene before and after visiting patient areas. An expert working group under the HA has met to discuss the treatment protocol of human infections of avian influenza A(H7N9).
- (iii) With regard to imported live poultry, in this first case of confirmed human contraction with avian influenza A(H7N9) in Hong Kong, the patient has reportedly visited a live bird market in Shenzhen, slaughtered and cooked a live chicken for consumption. However, details are not available. As a precautionary measure, we have suspended the import of live poultry from the registered farms in Shenzhen. The CHP will continue to trace the possible source of infection of the patient. Upon availability of further information, we will

discuss with the relevant Mainland authorities the import suspension arrangement on live poultry.

- (iv) The Food and Environmental Hygiene Department (FEHD) has stepped up cleansing and disinfection of retail outlets for live poultry, as well as enhanced inspection to ensure strict compliance with the rule against overnight stocking of live poultry. The FEHD has also disinfected the patient's residence.
- (v) The Agriculture, Fisheries and Conservation Department (AFCD) conducted visits to 15 local chicken farms and taken specimens for testing on 3 December. No irregularity was detected. It will conduct visits to the remaining 15 local chicken farms today. At the same time, the AFCD will continue to inspect the poultry wholesale market, Yuen Po Street Bird Garden, pet bird shops, and so on, to ensure that the birds are in healthy and normal condition. It has also issued letters to the trade reminding them to stay alert and strictly follow the biosecurity and hygiene measures. The AFCD will continue to take samples from dead birds and poultry for testing of avian influenza.
- (vi) The confirmed case has been notified to the WHO, the NHFPC, the health authorities of Guangdong and Macao, the General Administration of Quality Supervision, Inspection and Quarantine of the Mainland as well as quarantine authorities of Guangdong, Zhuhai and Macao. We have liaised with the Shenzhen Entry-Exit Inspection and Quarantine Bureau in paying attention to travellers and cross-boundary students who present with fever or are symptomatic. Suspected cases will be immediately referred to public hospitals for follow-up investigation.
- (vii) In addition to a dedicated webpage, the CHP has also set up a hotline at 2125 1111 to answer the public's questions. The hotline operates from 9 am to 6 pm.



**DR KWOK KA-KI** (in Cantonese): *President, while the Secretary has spent a long time giving his reply and pointing out, among other things, that the response level has been escalated to "Serious", we all know that this new virus that spreads from the Yangtze River Delta to the Pearl River Delta has a mortality rate of as high as 30%. So far, apart from the fact that the source of infection remains unknown, the Shenzhen municipal authorities do not even know whether or not the chickens are infected in any of the markets.*

*President, as the number of cross-boundary travellers will soon hit its peak during Christmas and the New Year, I would like to ask the Secretary whether there is a need to adopt more effective measures, including a temporary suspension of all imported live chickens and expeditiously performing genetic tests on patients with fever and severe pneumonia, as well as some necessary emergency work at boundary control points, such as requiring travellers to fill in health declaration forms and undergo body temperature checks.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, regarding this confirmed case which we suspect to be an imported case, it is true that we have not yet identified the source. However, there is one point which is quite clear and that is, the patient told the doctor that she had bought, slaughtered a live chicken in Shenzhen and consumed it. Therefore, the source is unclear for the time being and we have not yet found out which market she had visited. This is why I said sometime ago that the suspension of the import of live chickens from farms in Shenzhen that supply live chickens to Hong Kong is no more than a precautionary measure. It is different from the measure that we usually take, and I would say that it is more stringent. Therefore, under such circumstances, we do not see the need to fully halt the import of live chickens to Hong Kong for the time being.*

*Meanwhile, genetic tests are being carried out now, just that we will first carry out rapid tests on patients in hospitals and genetic tests will be performed for cases based on strong clinical suspicions. Certainly, following the confirmation of the first case, the experts in the HA will review the arrangements in respect of diagnosis and treatment to ascertain the need for further adjustments.*

**DR KWOK KA-KI** (in Cantonese): *President, he did not give a reply regarding body temperature checks and health declaration at boundary control points.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Concerning the arrangements at boundary control points, and as I have explained, we have been carrying out brand new infrared temperature screening on inbound travellers at all boundary control points and at special times, such as the outbreak of an epidemic in the eastern region of China some time ago this year, we will step up infrared screening by increasing the manpower for manual operation. After the first H7N9 case was confirmed in Hong Kong, we have stepped up this area of work while the DH will closely monitor the situation and deploy more staff to step up work in this area at boundary control points.

As for filling in health declaration forms as suggested by Dr KWOK, we do not see this need for the time being and what is more, this measure may not be effective.

**MR TOMMY CHEUNG** (in Cantonese): *President, with regard to the Secretary's reply earlier on, I would like to ask him this: Are there still many Hong Kong people who like to go to Shenzhen to buy chickens, put them in boiling water for a while and then bring them back to Hong Kong before they are thoroughly cooked? Of course, it is impossible to impose regulation requiring chickens to be thoroughly cooked before they can be consumed. May I ask the Secretary whether publicity can be enhanced and the Customs and Excise Department (C&ED) be requested to step up efforts in this regard? Moreover, as the Secretary has taken samples from local farms in Hong Kong, can he ask his colleagues or Mainland officials to help take samples from farms that supply chickens to Hong Kong for conducting sample tests?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, with regard to the situation mentioned by Mr CHEUNG, it is reported in the media that some Hong Kong people still go to poultry markets in the Mainland to buy chickens, and if the cases mentioned by Mr CHEUNG are true, I must say that it is very undesirable for members of the public to buy chickens and then slaughter them by themselves for consumption. We have exerted our best to step up work to issue reminders to the public through every channel. In the short term, the

DH will make continued efforts to step up publicity by, among other things, writing to all the organizations in order to issue reminders again through them.

Moreover, we also regularly carry out publicity through television advertisements. We believe the television will enable us to come into contact with a broader spectrum of people and groups, and we will further increase the frequency of television publicity. In view of the fact that some Hong Kong people may cross the boundary to buy chickens and then bring them back to Hong Kong, we must solemnly point out once again here that it is an offence to bring uncooked meat into Hong Kong without authorization, and we absolutely do not encourage people to do so, disregarding whether the meat is partly or fully cooked. We will step up the interception work with the C&ED.

As regards farms in the Mainland that supply chickens to Hong Kong, the relevant Mainland authorities will provide support to us by enhancing inspections and checks on these farms.

**MR ALAN LEONG** (in Cantonese): *President, we have learnt from the Secretary's main reply that with regard to the Indonesian domestic helper who is in critical conditions now, her test results were actually negative at first and her case was confirmed to be positive only five days later. I have this question for the Secretary. For this kind of patients whose results were negative in the first test, can they resume their normal life, such as getting in touch with other people and going to work and attending meetings as usual? Is it possible to reduce the time for confirming a case to be positive, so as to reduce the possibility of other people being infected by the virus as a result of coming into contact with these patients?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the situation mentioned by the Member involves two aspects. The first is that once a patient is suspected to have been infected, we will, according to the current mechanism, refer the patient to the HA for isolation and further tests will then be carried out on the patient. Such being the case, from the moment that the patient is hospitalized for isolation, he should not have any further chance to spread the virus to other people.

Second, when handling different cases and patients, we need to consider the clinical observations on the patients, the medical history provided by the patients, and the judgment made by healthcare personnel before diagnosing the risks involved and how suspicious the case is before carrying out different tests on the patients. So, if there is only one case, it would be very difficult for us to apply the experience of this case to other cases or patients. It is certainly our wish to reduce the time taken for confirming a suspected case by all means.

**MR GARY FAN** (in Cantonese): *President, the Secretary's main reply mentioned that the import of live poultry from three registered farms on the Mainland has been suspended. According to the information of the WHO, a chicken will not fall sick if this virus, namely, avian influenza A (H7N9), is injected into its nostril or even into its blood. So, it is impossible to take any precautions against the virus which can be likened to being invisible.*

*May I ask the Secretary, under what circumstances and based on what considerations or quantified data the Government will order the suspension of the sale of live chickens, be they local chickens or imported ones from the Mainland, thereby enhancing public hygiene and safety?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, my response consists of two parts. The first part concerns the suspension of the import of live chickens from Shenzhen which I pointed out earlier. I wish to explain once again that this is a special measure. It is different from the usual consideration of banning supply from places within a radius of 13 km of the infected area on which we have already agreed with the Mainland. The main reason is that the patient has revealed — though she did not reveal a lot of the details, at least we clearly know from the information revealed by her that she had bought a chicken at a poultry market in Shenzhen and then slaughtered it by herself for consumption.

I wish to reiterate here that many people think that it is fine so long as the chicken is thoroughly cooked for consumption and of course, it is safer to thoroughly cook chickens but the slaughtering of and contact with chickens pose greater risks. Therefore, do not think that it does not involve any risk to buy a live chicken and slaughter it at home and then thoroughly cook it for

consumption. I think the process of slaughtering and handling an infected live chicken entails even greater risks.

Insofar as the overall situation in Hong Kong is concerned, I think there is no sign showing problems with the local chickens so far. In fact, even for Mainland farms that supply chickens to Hong Kong, there is also no evidence showing that the chickens are infected or tested to be carrying the virus. But insofar as this case is concerned, the crux lies in the patient having clearly said that she had slaughtered a chicken by herself and we have not yet identified the places in Shenzhen visited by this patient, so the urgent practice we have adopted this time around is quite exceptional. We will ask the patient for more information by all means granting the opportunity. If there is further information to show more clearly the source of the disease epidemiologically, we will further discuss with the relevant Mainland authorities the need to make adjustments to the current practice.

**MR STEVEN HO** (in Cantonese): *President, I have heard many Members mention H7N9 earlier on. In fact, history has made the public and Members become panic-stricken on hearing mention of the virus. Just now Secretary Dr KO mentioned a myriad of contingency measures. I believe members of the public will appreciate these measures and are well aware of them, but what they know is just the general situation. They may not fully understand the details.*

*The three chicken farms from which the import of live chickens to Hong Kong is suspended are located in Kengzi, Gongming, and Guanlan. These places are all in Shenzhen and the species of chicken reared in these farms is called yellow hair chickens which are purely for export to Hong Kong. These chickens are basically not available for sale in Shenzhen markets, though I dare not say that this is absolutely the case. So, the patient in this case might not be infected by the chickens sold by these three farms ...*

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

**MR STEVEN HO** (in Cantonese): *I have provided such background information because I wish to ask the Government what steps it will take to identify the real source of the disease. How will it communicate with the Mainland departments*

*to find out the means of transmission in this case? Will it be wild birds? Or is this the result of wild birds coming into contact with backyard poultry reared in the Mainland? I would like to know what the Government will do under this mechanism.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, Mr HO mentioned the chicken farms on the Mainland. Virus tests are conducted whether in chicken farms, wholesale markets or retail outlets. These tests are conducted both in Shenzhen and Hong Kong, covering wild birds and carcasses of wild birds. In this case, however, it is most important to trace the source of infection which has a lot to do with the information provided by the patient and her friends in Shenzhen. But for various objective and subjective reasons, neither the patient nor people who have had close contact with her can provide clear information. The only clear information that we can grasp is that according to her, she had bought a chicken in a certain market in Shenzhen and then slaughtered it for consumption. Other information, such as from which market she bought the chicken, remains unclear.

I think in this incident, it is most important to grasp information on this patient as well as her close contacts in Shenzhen. To this end, I have communicated with the CHP in the hope that the epidemiologists in the CHP will formally trace the source of infection in the case of this patient. I dare not say whether or not sufficient information can be obtained in a short time for us to gain a fuller understanding of the source of infection, but this is more or less about what we can do.

**MR IP KIN-YUEN** (in Cantonese): *President, in view of the current circumstances, I am worried about the danger of an influenza outbreak. In his reply the Secretary revealed that the Government has adopted a Preparedness Plan for Influenza Pandemic but after reading the reply, I found a major loophole in that the schools are ignored. Schools are a place where the transmission of germs is very easy, and the students are also comparatively vulnerable.*

*If Members' memory still serves them well, they will recall that during the SARS outbreak a decade ago, great confusions were caused as no one knew whether the decision of class suspension should be made by the schools on their own or by the Education Bureau on a territory-wide basis. Under the current*

*contingency plan, is there a set of criteria or a mechanism to determine that the decision should be made by schools or under what circumstances the decision should be made by the Education Bureau or the Government? What are the details about this mechanism and the criteria? Particularly in view of the new development that many cross-boundary students go to schools in Hong Kong, have the authorities reviewed this plan which I guess may be drawn up a few years ago, and is there a need to revise the plan?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Preparedness Plan for Influenza Pandemic has not ignored the importance of schools at all. As I have explicitly pointed out, and as I made it clear at the press conference yesterday, the Education Bureau has taken part in the Serious Response Level Steering Committee under the Preparedness Plan for Influenza Pandemic.

At our meeting yesterday, we conducted a risk assessment of the overall developments and individual aspects. So, in response to the point about communication raised by the Member, we will carry out risk assessments in the Steering Committee, which includes a risk assessment of the overall situation and individual aspects before issuing guidelines, whereas the Education Bureau will also be responsible for liaising with the schools on the guidelines.

**MR ALBERT HO** (in Cantonese): *President, according to initial observations, the influenza A (H7N9) virus is rather lethal and so, this naturally reminds Hong Kong people of the SARS outbreak back in 2002, the horror of which has not yet been dissipated.*

*I would like the Secretary to take this opportunity today to draw a comparison between the H7N9 and H5N1 viruses in areas which are worth comparing, such as the lethality of the viruses, their infectiousness, the precautions taken against them, and so on. Besides, I remember that after the SARS outbreak, some experts said that the H5N1 antibody could be found in many Hong Kong people (about a quarter of them) and as such, is this antibody useful? Can it resist H7N9?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I understand that the supplementary question of the Member calls for a comparison between the H7N9 and H5N1 viruses. Certainly, I am no expert in this area but I will try my best to provide more information.

First, the two viruses have very different presentations in birds. Experts worldwide and authoritative organizations consider that the H5N1 virus is highly pathogenic to birds. That is to say, if birds are infected by the H5N1 virus, usually a significant proportion of a group of birds will become infected and even die. Broadly speaking, the H7N9 virus is low pathogenic to birds, which means that even after the birds are infected by or have come into contact with the H7N9 virus, it is difficult to notice any problem with them on the surface and it will not lead to infection or death of a large number of birds.

But the point is that both the H7N9 and H5N1 viruses are proved to be transmissible from birds to humans and according to what we know so far, humans are infected by the H7N9 and H5N1 viruses mainly through direct transmission from birds. As for their transmissibility among humans, it is so far defined as not transmissible among humans or limited human-to-human transmission, and they do not belong to the kind of sustained human-to-human transmission. Certainly, if there is the presence of certain objective conditions which give the virus the opportunity of reassortment, will this develop another subtype of the virus or will another strain of this subtype of virus be transmissible among humans more easily, that would be another question, and this is also our concern.

This is why we have always reminded the public of the need to guard against avian influenza as well as the common kinds of seasonal influenza. It is because if an outbreak of avian flu happens to coincide with a seasonal influenza outbreak, this may create an environment more favourable for reassortment. Both viruses are highly pathogenic to humans, and we are pretty sure about this point.

**MR LEE CHEUK-YAN** (in Cantonese): *President, we really hope that we can achieve zero risk or minimal risks. The Secretary seems to be saying that the import of live chickens from Shenzhen into Hong Kong is already suspended but Mr Steven HO said just now that the supply is suspended only from three chicken farms in Shenzhen, while the Secretary was unable to tell us the source of infection. I wish to make one point clear. Since the Secretary cannot identify*



*the source of infection, should we suspend the import of live chickens into Hong Kong from all chicken farms in Shenzhen, rather than applying the suspension to only three chicken farms, unless the Secretary will tell us that there are only three chicken farms in Shenzhen and therefore, a full suspension is already implemented in effect? I would like to know clearly whether there are still live chickens imported from Shenzhen among those currently available for sale in Hong Kong every day.*

*Besides, it is said in the main reply that the imports from Shenzhen have been suspended but it is then said that discussions will be held with the relevant Mainland authorities on the import suspension arrangement on live poultry. If the imports have already been suspended, what is there for the Government to discuss with the Mainland? Can the Secretary clarify this point?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the question consists of two parts. First, there are only three registered farms in Shenzhen that supply chickens to Hong Kong, but other information shows that one of these farms has ceased to supply live chickens to Hong Kong for some time. So, as a matter of fact, only two of the three registered farms in Shenzhen supplying chickens to Hong Kong were exporting live chickens to Hong Kong before there was a confirmed case. As for other live chickens available in the Shenzhen market, theoretically they should not be found in Hong Kong, unless there are still some Hong Kong people going to Shenzhen to buy live chickens, as I pointed out earlier on, and it is illegal to do so. As I have also said, we will work in concert with the C&ED to step up monitoring.

**MR LEE CHEUK-YAN** (in Cantonese): *President, the Secretary has not told us where the chickens in the market come from.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the chickens in the market come from two sources. First, they are supplied by local chicken farms and there are over 30 local farms in Hong Kong. Besides, these local farms normally supply about 5 000 chickens daily. As for major Mainland farms that supply chickens to Hong Kong, which are mostly found in Guangdong, they normally supply about 7 000 chickens to Hong Kong daily.

Let me also take this opportunity to make it clear that the arrangement adopted this time around of suspending the import of chickens from farms in Shenzhen is outside the original mechanism. But why do we still do it? There are two main reasons. First, the patient has provided clear information that she had come into contact with and slaughtered a live chicken. Regarding the two earlier cases that occurred in Guangdong, in the recent case in Dongguan, the information that we have obtained shows that the patient only happened to be in the vicinity of a retail chicken market, and it has remained unclear as to whether he had entered the retail market and come into contact with live chickens. But in this case in Hong Kong, we can more clearly confirm that the patient had slaughtered a live chicken.

Second, we cannot confirm from which market the patient bought the chicken and so, there are difficulties in banning the import of chickens from farms located within a radius of 13 km of the infected area. Therefore, the practices that we have adopted this time around are outside the ordinary mechanism, and I would say that these risk management measures are rather pre-emptive. For this reason, if clearer information becomes available at the next stage, it will be necessary to further review this arrangement with the Mainland.

**PRESIDENT** (in Cantonese): We have spent over 37 minutes on this question. Urgent question time ends here.

First question.

## **ORAL ANSWERS TO QUESTIONS**

### **Assisting Owners of Private Buildings in Carrying Out Building Repair Works**

1. **MR RONNY TONG** (in Cantonese): *Since mid-2012, the Buildings Department (BD) has fully implemented the Mandatory Building Inspection Scheme (MBIS), which is applicable to buildings 30 years old or more. Upon receipt of a statutory notice from the BD, owners' corporations (OCs) of the selected buildings are required to arrange qualified persons to carry out building inspection and conduct the prescribed repair as required. I have recently received quite a number of requests for assistance from owners of housing estates*

*which are 20-odd years old only. They said that although the OCs of their buildings had not yet received any statutory notice from the BD, the OCs and the property management companies had already arranged to conduct investigation works in the estates and invited tenders for maintenance programmes which involved huge costs. Those owners pointed out that they were unable to verify if the repair works under the maintenance programmes were necessary and they had to vote on the maintenance programmes at the general meetings of the OCs without knowing the relevant details. As most owners were indifferent to the maintenance programmes, many controversial maintenance programmes were passed by a slight majority of ownership shares at the meetings. In this connection, will the Government inform this Council:*

- (a) of the numbers and names of housing estates and buildings between 25 to 30 years old in various District Council districts, and whether it knows if the OCs concerned have recently planned to carry out any large-scale building maintenance programme; of the number of applications received by the Government for funding of such programmes under various assistance schemes or interest-free loan schemes, the percentage of the number of those housing estates in the total number of eligible housing estates in Hong Kong since the implementation of the MBIS, as well as the success rate of those applications and the total sum granted; apart from financial assistance, whether the Government has rendered any other support to owners carrying out such programmes; if it has not, of the reasons for that;*
- (b) as quite a number of owners of housing estates have pointed out that the passage at an OC general meeting of a proposal to implement a large-scale building maintenance programme, no matter how high cost is, requires only a majority vote (which means that more votes are in favour of the proposal than against it), whether the Government has assessed if there is a loophole in the law regarding the adoption of such a voting method for large-scale building maintenance programmes; if the assessment result is in the affirmative, whether the Government will consider amending the legislation, for example, by requiring that the support of owners holding a majority of the ownership shares of a housing estate must be obtained before a large-scale building maintenance programme may be implemented, in the same manner as the requirement for*

*terminating the appointment of the Deeds of Mutual Covenant managers, in order to enhance protection of owners' interests; if it will, of the time to amend the legislation; if not, the reasons for that; and*

- (c) *as quite a number of owners of housing estates have indicated that they have little knowledge of the maintenance works required under the MBIS and are unable to distinguish them from the general maintenance and repair works, resulting in frequent disputes with OC members, whether the Government has made any publicity effort to educate the public on common knowledge of the general repair works of buildings; if it has, of the details; if not, the reasons for that; whether the BD has appointed representatives to attend the OC general meetings of various housing estates in order to provide technical advisory service and explain the legal requirements; if it has, of the housing estates which OC general meetings were attended by the BD's representatives in the past three years, as well as the effectiveness of such practice; if not, whether it has planned to implement the aforesaid measure and when to do so?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, the MBIS and the Mandatory Window Inspection Scheme (MWIS) were fully implemented on 30 June 2012 to tackle the problem of building neglect at source. The two schemes cover all private buildings aged 30 years or above and 10 years or above respectively, except domestic buildings not exceeding three storeys in height. Under the Buildings Ordinance, the MBIS is not applicable to buildings aged below 30 years and, as such, the BD cannot issue statutory notices to these buildings. Nevertheless, we encourage owners to properly maintain their buildings on their own initiative. Building owners/OCs may take the initiative to carry out the required inspection and repair under the MBIS. Where the process follows the standards and procedural requirements under the two schemes, even though the building has reached the age requirement of the two schemes, the BD will not select it to carry out mandatory building and window inspection within the respective inspection cycles.

Having consulted the Home Affairs Bureau, my reply to the three-part question is as follows:

- (a) At present, there are approximately 15 000 and 25 000 private buildings in the territory eligible for selection as target buildings under the MBIS and the MWIS respectively. According to the records of the BD, there are approximately 3 240 buildings aged between 25 and 30 years in Hong Kong. The breakdown on the number by District Council districts is at the Annex. In general, other than buildings that carry out investigation and repair in compliance with a statutory order issued by the BD, the BD does not know if the owners or OCs of individual buildings have planned to carry out repair works.

The Hong Kong Housing Society (HKHS) and the Urban Renewal Authority (URA) jointly launched the Mandatory Building Inspection Subsidy Scheme (MBISS) in August 2012 to subsidize eligible owners the full cost of the first building inspection under the MBIS (subject to a cap)<sup>(1)</sup>. As at end October 2013, the HKHS and the URA had received a total of 179 applications, among which 149 applications had been granted "approval-in-principle", six applications were rejected owing to the failure to meet the eligibility criteria of the scheme and the rest were under processing. We do not have information on the percentage of the number of buildings having applied for the MBISS over the total number of buildings eligible for applying under the subsidy scheme<sup>(2)</sup>.

Apart from financial assistance, the HKHS and the URA will also provide technical assistance to owners participating in the subsidy scheme, including assisting them to organize themselves and offering support on tendering matters. As for the repair works found necessary according to the inspection, the Government, together with the HKHS and the URA, will continue to provide

- (1) The MBISS covers buildings that are aged 30 years or above and that have received pre-notification letters or statutory notices under the MBIS issued by the BD. Buildings applying for the subsidy scheme should also meet the eligibility criteria on rateable value.
- (2) As mentioned in footnote 1, a building is eligible for applying for the MBISS only if it has received a pre-notification letter under the MBIS issued by the BD and meets the eligibility criteria on rateable value. As at September 2013, the BD had issued pre-notification letters under the MBIS to 2 484 buildings. As the BD does not have information on the rateable value of these buildings, it is unable to provide the required percentage.

financial assistance under the various existing schemes<sup>(3)</sup>. The amount of subsidy will be determined when the actual cost is available upon completion of the inspection and repair. As there are currently no cases where the inspection has been completed, we are unable to provide the amount involved in the approved applications.

- (b) According to the Home Affairs Bureau, section 3 of Schedule 3 to the Building Management Ordinance (BMO) stipulates that subject to provisions otherwise provided in the BMO, all matters (including maintenance works) arising at a meeting of the OC at which a quorum is present (that is, 10% of the owners) shall be decided by a majority of the votes of the owners voting either personally or by proxy. This requirement aims to ensure that the passing of a resolution at an OC meeting is subject to the consent of a certain number of owners, while avoiding the difficulty in commencing maintenance works due to too high the required percentage of owners for the passing of the resolution.

Moreover, the BMO has provided for measures to ensure the transparency of any maintenance works carried out by an OC and the OC's effective supervision of the tendering and the maintenance works concerned. Under the BMO, an OC shall invite tender for any projects with a total value over \$200 000, and a general meeting shall be convened to endorse the relevant tender if the total value of the project exceeds 20% of the annual budget of the OC. Furthermore, during the tendering process, an OC has to observe relevant codes of practice under the BMO<sup>(4)</sup>.

To ensure that the BMO keeps pace with changing circumstances, the Review Committee on the Building Management Ordinance (Review Committee), comprising members from relevant sectors with extensive knowledge in property management, is conducting a comprehensive review of the BMO. The review will, *inter alia*,

- (3) The schemes include the Integrated Building Maintenance Grant Scheme jointly administered by HKHS and the URA, the Building Safety Loan Scheme administered by the BD, and the Building Maintenance Grant Scheme for Elderly Owners administered by the HKHS.
- (4) The Code of Practice on Procurement of Supplies, Goods and Services and the Code of Practice on Building Management and Maintenance.

examine ways to resolve common problems in building management, such as improving the resolution procedures relating to maintenance works. Upon receipt of the Review Committee's recommendations, the Government will study how to follow up on and implement the recommendations.

- (c) The scope of the MBIS covers the common parts, external walls, projections and signboards of a building. The BD has issued a code of practice, setting out the building elements required to be inspected under the MBIS and specifying that there are building elements and services that do not fall within the scope of the MBIS<sup>(5)</sup>. While under the MBIS owners are required to carry out basic repair works only to render the building safe, owners of individual buildings may wish to carry out other improvement works concurrently and such decisions are made by the building owners after discussion among themselves. The code of practice requires a registered inspector to clearly state in the repair proposal the repair works required under the MBIS, which should be distinguished from any additional works.

Since the implementation of the MBIS and the MWIS, the BD has taken various measures to enhance publicity. As part of the publicity efforts, the BD has organized or attended upon invitation over 200 briefing sessions, including district briefing sessions that it organized for owners of target buildings on a quarterly basis as well as those that were organized by individual organizations or estates and attended by the BD upon invitation. The BD has not maintained a list of estates that have participated in or organized the briefing sessions. In all of the briefing sessions, the BD staff will explain the scope of the MBIS and the MWIS to residents. Residents can also contact the BD if they have any enquiries.

- (5) Under paragraph 3.1 of the Code of Practice for the MBIS and the MWIS, an inspection under the MBIS shall cover external elements and other physical elements, structural elements, fire safety elements, drainage systems and unauthorised building works. The paragraph also specifies that building elements and services that do not fall within the scope of the MBIS include foundations, buried or embedded elements such as pile caps and ground beams, freestanding earth retaining structures, slopes and buried water services in slopes, lifts, escalators, fire services installations, electric wiring, ventilation and air conditioning systems, and gas and water supplies installations.

Numbers of private buildings aged between 25 and 30 in Hong Kong according to District Council districts (as at September 2013)

<i>District (according to District Council districts)</i>	<i>Number of Buildings (approximate number)</i>
Central and Western	340
Eastern	370
Southern	160
Wan Chai	250
Kowloon City	330
Kwun Tong	140
Sham Shui Po	180
Wong Tai Sin	30
Yau Tsim Mong	220
Islands	80
Kwai Tsing	110
North	70
Sai Kung	60
Sha Tin	330
Tai Po	180
Tsuen Wan	100
Tuen Mun	160
Yuen Long	130
Total	3 240

Note:

Given the large number of buildings, the names of individual buildings are not listed.

**MR RONNY TONG** (in Cantonese): *President, as usual, the Secretary has only presented something that is already known to us rather than answering my question. However, noting that many colleagues are waiting to raise their supplementary questions, I can only focus on one of the most crucial points.*

*President, according to the existing requirement, in order to dismiss a management company, the support of owners holding a majority of the ownership*



*shares must be obtained before such a resolution can be passed. However, as for all other resolutions, only a majority vote at an OC general meeting is required. That is to say, theoretically, if the support of owners holding 6% of the ownership shares is secured, the tendering proposal of a building maintenance programme can be passed. In fact, many housing estates have to conduct repair works that involve hundreds of million dollars. I have recently received assistance requests from a number of housing estates. The maintenance cost incurred by one of them was as high as \$300 million, but the proposal was passed by only about 10% of the ownership shares. President, this is really a big loophole.*

*I hope the Secretary can give me an answer. We note from the annex to his reply that building maintenance will reach its peak in the coming few years. By that time, thousands of buildings will be required to carry out maintenance works. With such a loophole, many people can take advantage of building maintenance to reap gains or even engaged in corrupt activities, as the passage of these programmes that involve huge costs only requires the support of owners holding a very low percentage of the ownership shares.*

*May I ask the Secretary if he has any plans to amend the legislation expeditiously, so as to stipulate that the support of owners holding 50% of the ownership shares of a housing estate must be obtained before a resolution of conducting a building maintenance programme that involve huge costs can be passed?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, the Review Committee has studied this issue thoroughly. They have considered whether the statutory percentage of ownership shares required for the passage of a resolution should be raised, say from 10% to 20% or even to 50%. They have also considered if a higher percentage, rather than a simple majority, should be required.

At that time, the Review Committee noted that should any substantial adjustment be made, most of the maintenance works might not be commenced, thus affecting the quality of buildings. As we all know, some individual housing estates may from time to time encounter difficulties in dismissing their management companies because of the excessively high percentage of ownership shares so required.

However, the Review Committee will continue with its review of the BMO and recommendations are expected to be put forth in 2014. The Secretary for Home Affairs has also advised that he will study how to follow up on and implement the final recommendations of the Review Committee.

**DR PRISCILLA LEUNG** (in Cantonese): *President, the Operation Building Bright (OBB) is itself a good initiative as it can help renovate dilapidated buildings that are in need of repairs. But at the front line, we notice that the OBB has given rise to many disputes as huge sums of money are at stake. As mentioned by Mr Ronny TONG just now, hundreds of million dollars are involved in maintenance works. Even for single buildings, the costs involved may be as high as \$10-odd million. Among the disputes from residents handled by us every day, the problem of bid-rigging is their gravest concern.*

*Given that huge sums of money are at stake in building maintenance, I would like to ask the Government whether, in launching the OBB, assistance will be offered to housing estates whose residents are mainly elders? It is because even though these estates have their own OCs, no monitoring can be effected as the owners lack expertise to determine if bid-rigging is involved. Will the Government consider allowing independent third parties to assist the owners, such as providing professional input, so as to enable them to make decisions and avoid bid-rigging in the process of tendering? These are commonly found ...*

**PRESIDENT** (in Cantonese): Dr LEUNG, please sit down after raising your supplementary question and let the Secretary answer it.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I thank Dr Priscilla LEUNG for her question. We are also very concerned about this issue. After launching the OBB, the HKHS, URA and BD have maintained close liaison with the Independent Commission Against Corruption concerning the hiring of consultants and the content of the maintenance guidelines to be issued to contractors which stipulate, among other things, the requirements and procedures for hiring, selection and management of consultants and contractors, as well as some anti-bribery and anti-collusion practices. Owners and OCs are most

welcome to make enquiries in this regard and the guidelines are available on the relevant websites.

President, the HKHS and the URA also review from time to time how best to improve the tendering process and have introduced a new practice under the OBB recently. In September this year, a new tendering arrangement applicable to registered general building contractors was introduced, under which the tendering process originally handled by Authorized Persons, building management companies or OCs would be managed by an independent accounting firm appointed by the URA and the HKHS. With an independent third party, tendering can be conducted on a platform free from interference, and non-disclosure of the identity of the bidders will be ensured. Such practice can also ensure fairness, impartiality and competitive element of the tendering exercise.

**MR TONY TSE** (in Cantonese): *President, in implementing the MBIS and MWIS or the relevant works, qualified technical or professionals or contractors should be hired.*

*May I ask the Secretary if there is any channel under the existing mechanism for owners to lodge complaints against individuals or contractors for exaggerating the works required or giving inappropriate suggestions for purposes of profiteering? If there is such a channel, of the procedures for lodging complaints; if not, the reasons for that?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, detailed requirements are stipulated regarding the specific scope of maintenance works. We encourage owners, in carrying out such works, to make reference and comparison to the detailed requirements stipulated by the BD. We also encourage owners to adopt tendering and competitive practices in looking for professionals and contractors, so as to determine if the scope and quotation of the works proposed by them are reasonable. Should there be any problems relating to individual professionals, owners can of course lodge complaints with the relevant professional bodies. They may also approach the law-enforcement agencies concerned for complaints.

**MR KWOK WAI-KEUNG** (in Cantonese): *Recently, many OCs have relayed to me that the maintenance costs are very high. Apart from the increased construction costs, it is, to a certain extent, attributed to bid-rigging. However, let us take a look at the existing legislation. At present, there is no legislation regulating the offence of bid-rigging explicitly. Convictions can only be made for such offences as false declaration or fraud, thus failing to achieve sufficient deterrent effect. May I ask the Secretary if he will consider enhancing the legislation as the next step, so as to curb or stem bid-rigging?*

**PRESIDENT** (in Cantonese): I wish to point out to Members that the sixth oral question today will deal with the issue of bid-rigging. Let me see if the Secretary has any response for the time being.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): As mentioned by the President, the Secretary for Home Affairs may give a more comprehensive reply later. However, as I said earlier, the BD has introduced some measures, such as the new tendering arrangement launched jointly by the URA and the HKHS. In our opinion, taking precautions is most crucial. Therefore, it is more important for us to improve the tendering process and educate owners and OCs how to exercise their rights and prevent bidders from engaging in "collaboration" so easily during the process.

**MR IP KWOK-HIM** (in Cantonese): *Under the arrangements of the OBB, building maintenance works has reached its peak now, which will definitely cause the maintenance costs to rocket. With the implementation of the MBIS and MWIS, the problem has become more serious. I noted from the second paragraph of part (c) of the Secretary's main reply that the BD has organized over 200 briefing sessions for the OBB and given briefings upon invitation by many organizations. However, the problem is that such briefings are related to the legislation only. As the MBIS and MWIS have just been launched, many practical problems have yet to be encountered and no briefing can be given on them. As a result, many owners, after attending the briefings on the legislation, still find it difficult to understand the MWIS and have no way to ...*

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

**MR IP KWOK-HIM** (in Cantonese): ... *My supplementary question is, what is the pace of issuing orders by the authorities each year at present? Will they reduce the number of orders to be issued, so as to give better guidelines or guidance to building owners after acquiring more experience, thereby enabling the more effective implementation of the MBIS and MWIS?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, I would like to thank Mr IP Kwok-him for raising this supplementary question. In fact, in briefing the Panel on Development of the Legislative Council on our work earlier on, we also mentioned this point and many Members put forth views. The MBIS and MWIS are important because not only building safety but also public safety is involved. As Members may recall, there were incidents in which passers-by were injured by windows falling from buildings. For the first phase of the MBIS, our target is to conduct mandatory building inspection for 2 000 buildings within the first year. As for the MWIS, apart from these 2 000 buildings, we will conduct mandatory window inspection for another 3 800 buildings. In concluding the experience gained over the past year or so, as mentioned by Mr IP just now, the general public may take time to understand this issue, whilst the sector may take time to learn about the relevant codes of practice and explore ways to implement these schemes and ensure the smooth conduct of the maintenance works.

As for the MWIS, our original target is to inspect 5 800 buildings a year. However, the numbers of windows of some buildings, which are of course exceptional cases, are much higher than our projected average. Worse still, during the same period, the BD has a very heavy workload on various fronts such as inspection of unauthorized building works and building safety. Colleagues of the BD have worked very hard to cope with it. Among the 2 000 buildings identified in the first phase of the MBIS, only about 50% have been issued with statutory orders. As for the other 3 800 target buildings for window inspection, the corresponding percentage is about 20% only. In other words, there is still an enormous backlog. As the next step, we will enhance the manpower to clear the long-standing backlog. Meanwhile, we will adopt a pragmatic approach and adjust the target of the coming year substantially, so that we can meet the goal whilst members of the public can set their mind at ease. We will persevere with

our work in this regard carefully and, at the same time, give the public some room to catch some breath.

**PRESIDENT** (in Cantonese): A number of Members are still waiting for their turns to raise supplementary questions, but we have spent nearly 25 minutes on this question. Second question.

### **Welfare Benefits for Elderly People of Hong Kong Residing in Guangdong and Fujian Provinces**

2. **MR CHRISTOPHER CHEUNG** (in Cantonese): *President, the Social Welfare Department launched the "Guangdong Scheme" in October this year, under which eligible Hong Kong elderly people aged 65 or above who choose to reside in Guangdong Province may receive a monthly Old Age Allowance (OAA) and they are not required to return to Hong Kong each year. I have learnt that at present, Fujian Province is the place of origin of about 1.2 million Hong Kong permanent residents, and more and more elderly people have chosen to reside in Fujian Province in recent years. Yet, the Secretary for Labour and Welfare told the media a few months ago that at this stage, the Government had no intention of extending the coverage of the Scheme to provinces other than Guangdong Province. In this connection, will the Government inform this Council:*

- (a) *given that at present, the eligible elderly people residing in both Fujian and Guangdong Provinces may apply for and receive Comprehensive Social Security Assistance (CSSA) payments, why the authorities provide the OAA only to the eligible elderly people residing in Guangdong Province but not to those in Fujian Province; of the circumstances under which the Government will provide OAA to the eligible elderly people in Fujian Province;*
- (b) *whether it has assessed the number of eligible elderly people who will benefit should the coverage of the Guangdong Scheme be extended to those residing in Fujian Province; if it has assessed, of the findings; if not, whether it will conduct an assessment; and*
- (c) *given that the Government indicated in June this year that after implementing the Old Age Living Allowance (OALA) and the Guangdong Scheme for a period of time, the Government would*

*explore the feasibility of allowing eligible elderly people who chose to reside in Guangdong Province to receive the OALA, when such a plan will be implemented, and whether it will be applicable to the eligible elderly people residing in Fujian Province at the same time?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, my reply to the question raised by Mr Christopher CHEUNG is as follows:

- (a) Against a unique background, the Government has chosen to implement the Guangdong (GD) Scheme in GD Province to allow eligible Hong Kong elderly people who reside therein to receive the OAA without having to return to Hong Kong. First, GD is the preferred destination of HK residents who choose to retire on the Mainland. Moreover, there are unique and close ties between GD and Hong Kong in geographical, economic and social terms. With a number of major transport infrastructural projects coming on stream, travelling between the two places will be more convenient and elderly people who have moved to GD can still maintain close contact with their relatives and friends in Hong Kong and obtain support more easily. The close ties and unique relationship between the two places have also been enshrined in the Framework Agreement on Hong Kong/Guangdong Co-operation (the Framework Agreement) signed in April 2010. We are of the view that at present only GD carries the characteristics in question.

Currently, an elderly person benefiting from the GD Scheme receives the OAA at a monthly rate of HK\$1,135. Applicants aged 65 to 69 are subject to a means test while those aged 70 or above are not.

The Portable Comprehensive Social Security Assistance (PCSSA) Scheme is an arrangement made under the Comprehensive Social Security Assistance (CSSA) Scheme. The CSSA Scheme provides financial assistance to families that are unable to support themselves in order to help them meet their basic needs. At present, elderly persons aged 60 or above who have received CSSA continuously for at least one year and choose to take up residence in GD or Fujian may apply for the PCSSA Scheme. Such elderly persons will continue to receive their monthly standard rate payment and annual

long-term supplement. Depending on their health condition, the standard rates range from HK\$2,935 to HK\$5,000 per month.

The GD Scheme and PCSSA Scheme are two different schemes with different policy considerations and objectives. Recipients of the OAA are not limited to those in financial hardship and the number of OAA recipients far exceeds the number of elderly persons receiving CSSA. We consider that it would not be appropriate to compare the GD Scheme with the PCSSA Scheme directly.

- (b) We have not assessed the number of elderly beneficiaries if the GD Scheme is to be extended to Fujian.
- (c) The GD Scheme was launched in October 2013. We will draw on the experience gained from the first year of implementation of the Scheme in exploring the feasibility of extending the OALA to GD.

**MR CHRISTOPHER CHEUNG** (in Cantonese): *President, nowhere in his reply has the Secretary clearly explained why the coverage of the GD Scheme cannot be extended to Fujian Province. What he said is nothing more than the fact that they are two different schemes with different objectives, falling short of giving the details of any difference between them. Those having no knowledge of the ins and outs would have even presumed that these two schemes are under the charge of different officials. It is really incomprehensible why bureaucracy has reached such a level even though the two schemes are administered by the same department.*

*May I ask why the elderly people residing in Fujian Province are eligible for CSSA but not the "fruit grant". What is the rationale? Is it that something has gone wrong with the part for Fujian Province in the existing PCSSA Scheme? If not, why is there discrimination based on place of origin, which exhibits disregard for the justifiable needs of the 1.2 million Hong Kong residents whose place of origin is Fujian? Secretary, could you clearly answer whether a comprehensive review will be conducted immediately in relation to the extension of coverage of the GD Scheme to Fujian for the benefit of the elderly people residing in Fujian?*



**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I thank Mr CHEUNG for his supplementary question. I also understand the background of his remarks. As I explained in the past and clearly recounted in the main reply, the GD Scheme was implemented for special reasons and against a unique background, and is thus confined to providing services to the elderly people residing in Guangdong. The reasons, which have been clearly explained in the main reply, include many very unique geographical, economic and social justifications. Moreover, the geographical and economic ties between Hong Kong and Guangdong have both been enshrined in the Framework Agreement, even from the perspective of integration. Therefore, the unique background and environment, the very close relationship and ties between the two places, as well as the mature development of boundary crossings that facilitates the provision of support and care to elderly people residing in the Mainland by their family members and friends in Hong Kong, are conditions not found in other provinces at the moment.

We have absolutely no intention of cold-shouldering the residents originating from Fujian. Instead, in response to public demands, we have adopted a purely pragmatic approach to make arrangements in relation to the possibility for elderly people continuing to receive the OAA after leaving Hong Kong. We have all along been examining this issue. In fact, we had conducted studies for a long time before drawing up the GD Scheme. As Mr CHEUNG said earlier, everybody knows that the considerations for the CSSA Scheme and the OAA are not quite the same. The CSSA Scheme is aimed at helping those who face economic difficulties in meeting their basic living needs. It is a different story for the OAA scheme. The positioning and objectives are different between the two schemes. It is precisely for this reason that we have opted for the implementation of the GD Scheme.

**MR POON SIU-PING** (in Cantonese): *The Secretary has explained earlier in his reply why the coverage of the GD Scheme is not extended to other provinces, but I wish to further understand whether the Government has got to grips with the number of Hong Kong elderly people currently enjoying their retirement life in the Mainland and their distribution in different provinces. If not, given that somehow the authorities have to conduct a review of the GD Scheme one year after its implementation, will they make use of this opportunity to conduct a study on the relevant circumstances?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I thank Mr POON for his supplementary question. The Census and Statistics Department conducted a survey in 2011. The rough data obtained indicate that about 78 200 Hong Kong residents aged 65 or above resided or stayed substantially in the Mainland at that time, with 60% of them residing in Guangdong.

**DR PRISCILLA LEUNG** (in Cantonese): *President, as the number of elderly people in Hong Kong is growing, how best elderly people can be helped in the long term to return to the Mainland for retirement and ageing is also one of the policies that the Government has all along been proactively studying. Therefore, regarding the question raised by Mr Christopher CHEUNG specifically about Fujian, I also think that the Government should expand the relevant welfare system so that more elderly people are willing to return to the Mainland for retirement, but I have received many queries about one of the aspects, which I would like to raise with the Secretary here.*

*On the medical front, no matter in Guangdong, Fujian, or even places further north, elderly people have raised the same query as to whether there are locally designated medical service providers or hospitals that have better connections with the Hong Kong Government, where they can seek assistance just in case of need in the future. For example, when they may need to return to Hong Kong for medical treatment, they can seek consultation first from such medical service providers or hospitals. This is because medical services are indeed very important to them in spending their twilight years in those places.*

**PRESIDENT** (in Cantonese): Dr LEUNG, the third oral question to be raised later is related to the issue of medical services for Hong Kong elderly people residing in the Mainland. Please raise your question again then. Secretary, with regard to this question, do you wish to give any response?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I thank Dr LEUNG for her question. I would also like to make a brief response. Medical service is indeed a major issue. It is currently also the greatest obstacle hindering many elderly people from returning to the Mainland to spend their twilight years. How do we know that? From the implementation of the

PCSSA Scheme under which elderly people residing in Fujian may continue to receive CSSA, it is found that the number of people using the scheme is actually declining. According to the simplest demographic data, a total of 3 308 elderly people used the scheme in 2006-2007, but in September this year, the latest figure dropped to 2 183. Why was there a drop in the number of users? According to our survey findings, more than 40% of those elderly people stopped using the scheme because they needed to return to Hong Kong for medical treatment. Therefore, access to medical services is indeed an issue. I believe that Secretary Dr KO will provide additional information in this regard when he responds to the third question to be raised later.

**MR FREDERICK FUNG** (in Cantonese): *President, regarding the question of why the GD Scheme supports only the elderly people residing in Guangdong, neither of the two main reasons mentioned in the first paragraph of part (a) of the Secretary's main reply is related to people. The first reason cited is that Guangdong is a preferred destination for retirement in the Mainland. The second is that there are close ties and a unique relationship between Guangdong and Hong Kong. He then said in the fourth paragraph of part (a) of the main reply that no comparison can be drawn between the two schemes because the GD Scheme is aimed at facilitating receipt of the OAA by elderly people, as if the GD Scheme were designed for elderly people while the other scheme were not.*

*May I ask the Secretary, with regard to the context of the first paragraph of part (a) of the main reply, why the authorities do not take into consideration also the second preferred destination under the GD Scheme? I believe that, in terms of number, if Guangdong is the first preferred destination, Fujian should be the second. Then why is the second preferred destination not taken into consideration as well, and why is the arrangement for the first preferred destination not extended to cover that place?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): *President, I thank Mr FUNG for his supplementary question. We have clearly explained in the main reply that the GD Scheme is implemented for some unique reasons, including such factors as geographical, social and economic conditions. I also pointed out just now that among the Hong Kong residents aged 65 or above who*

spend their twilight years or take up permanent residence in the Mainland, 60% or about 40 000 plus reside in Guangdong. This is a major reason for implementing the scheme.

I believe Honourable Members may recall that the GD Scheme had been prepared and studied for a long time before launch. The process involved a lot of repeated deliberations and policy considerations. This approach is in fact a breakthrough which can at least benefit the elderly people residing in Guangdong by sparing them the trouble of travelling between two places. I hope Honourable Members will understand that our objective is to seek a breakthrough in policy with a realistic and pragmatic approach. This is the background against which the GD Scheme was implemented. I would appreciate Members' understanding that there are also certain constraints on the Government.

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

**MR FREDERICK FUNG** (in Cantonese): *He has not answered my supplementary question. He just kept explaining why the GD Scheme ...*

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

**MR FREDERICK FUNG** (in Cantonese): *As far as I know, in addition to Guangdong, many elderly people reside in Fujian. I think, for the elderly people, Fujian is the second preferred ...*

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

**MR FREDERICK FUNG** (in Cantonese): *My question was whether the Secretary would extend the approach for the first preferred destination to the second one, but he kept elucidating the circumstances around the first preferred destination in his reply.*

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

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, frankly, the GD Scheme, which started just in October, is still in its infancy. Yet, we have now received about 16 100 applications, which are being actively processed. I believe that our first priority should be focused on perfecting the GD Scheme. We have made an undertaking to examine our way forward in a year with regard to the implementation of the scheme. This is a more pragmatic approach.

**MR NG LEUNG-SING** (in Cantonese): *President, the second part of the main reply mentioned that the Government has not assessed the number of elderly beneficiaries if the scheme is to be extended to Fujian. In this case, have the authorities considered conducting a similar survey through the existing Fujian associations in Hong Kong and pre-registration, in order to get to grips with the relevant number of people, so that they know when the arrangement concerned can be progressively extended to cover those of Fujianese origin?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, I thank Mr NG for his views. We will certainly take them into consideration in due course. However, I wish to point out again that we did examine the overall situation before drawing up the GD Scheme. Of course, we have not yet got hold of substantial data; therefore it is uncertain how many elderly people would choose Fujian for permanent residence or retirement, but as far as the PCSSA Scheme under the CSSA Scheme currently in operation is concerned, there are currently 2 183 elderly beneficiaries. Among them, 2 008 people reside in Guangdong and 175 people reside in Fujian Province to spend their twilight years. In other words, the ratio between the number of cases related to permanent residence in Guangdong and that in Fujian is 11 to one. It roughly reflects how priorities should be set in practice. The trend is quite obvious and Members can draw reference from this.

**MISS ALICE MAK** (in Cantonese): *President, I also wish to follow up the scheme related to Fujian because I share the view that the Secretary has not*

*assessed the number of elderly people currently residing in Fujian and it is unfair to them. Given that elderly people residing in Guangdong and Fujian can receive assistance under another scheme, why is it impossible to extend the coverage of the GD Scheme currently in implementation to Fujian Province? May I ask the Secretary whether the authorities have considered a timetable for refining the GD Scheme so as to facilitate the extension of the relevant arrangement to other provinces chosen by some elderly people of Hong Kong for resettlement?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I thank Miss MAK for her supplementary question. I would like to raise several points. First, regarding the background for implementing the GD Scheme, we all know that there are unique reasons, namely the geographical, economic and social relationships between Hong Kong and Guangdong, integration with the Pearl River Delta, and so on. However, as I pointed out earlier, as this scheme is just in its infancy, applications are still being received and the disbursement of allowances has just begun so that 4 000-plus elderly people have received payments. The applications will be vetted gradually as soon as possible. I hope that Honourable Members can give us more time to focus on bringing this scheme to perfection. As for the way forward, if there are opportunities and room for expansion and refinement, we are more than willing to explore the next step.

**MR KWOK WAI-KEUNG** (in Cantonese): *President, despite the implementation of "one country, two systems" in Hong Kong, all Hong Kong permanent residents are in fact Chinese nationals. As some Hong Kong people are residing in the Mainland, should they be also entitled to the rights enjoyed by nationals? I think the rights of all nationals should be equal and not restricted by the location of their residence. May I ask the Secretary, in a simpler and broader sense, whether he has any timetable to decide that all Hong Kong permanent residents are entitled to the rights under the OAA Scheme in the future, provided that they reside within the territory of China, including Guangdong, where the number of Hong Kong people residing is the highest, followed by Fujian, and then likely Shanghai and other places?*

**PRESIDENT** (in Cantonese): Mr KWOK, according to the Basic Law, not all Hong Kong permanent residents are Chinese nationals.

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): President, thank you for the clarification. I also wish to respond to Mr KWOK. As I pointed out just now, we should do a good job of the most important task at present, that is, the proper handling of the GD Scheme, because it is still in its infancy. What the Honorable Member said is already a matter of the distant future. We should progress gradually, doing a good job of the GD Scheme first to lay a solid foundation and then looking into any problems and the operation. I undertake to conduct a review in about a year to study whether this method can also facilitate receipt of the OALA by elderly people, and then give it holistic consideration altogether.

**MR IP KWOK-HIM** (in Cantonese): *President, the Secretary mentioned in his reply the implementation of the GD Scheme, disbursement of the OALA to elderly people, as well as the PCSSA Scheme. May I ask the Secretary, given that there is currently an acute shortage of elderly homes in Hong Kong, and I am aware that some voluntary organizations from Hong Kong have set up elderly homes in the Mainland, such as in Yantian and Zhaoqing, whether the authorities will consider allowing those elderly people living in the elderly homes there to receive the subsidy currently provided in Hong Kong, so that allowances can be disbursed in those places and therefore elderly people can consider living in the elderly homes there?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I thank Mr IP for the supplementary question. His view is in fact quite close to that of the Government. We have been working on a study of the feasibility of this approach. You were right just now in saying that the Hong Kong Society for Rehabilitation currently operates an elderly home in Yantian, which was built with funding from the Hong Kong Jockey Club. Its target residents are elderly people of Hong Kong. However, for various reasons, such as access to medical services, very few Hong Kong elderly people live there. In addition, there is an elderly home operated by the Helping Hand in Zhaoqing. I have recently visited both homes.

We are studying the feasibility of the approach raised by Mr IP earlier to allow elderly people who are eligible for admission to subsidized elderly homes in Hong Kong, that is, elderly people confirmed by physical and functional assessment to be eligible to wait for residential care services, to receive subsidy after opting to live in these two elderly homes, so that they can continue to enjoy the subsidy throughout their institutional stay. We are studying and considering this proposal.

**IR DR LO WAI-KWOK** (in Cantonese): *President, the GD Scheme and the PCSSA Scheme not only provide substantial assistance to the elderly people of Hong Kong who have chosen to spend their twilight years in these two provinces, but also alleviate the problem of inadequate elderly care services and support in Hong Kong. At present, under the GD Scheme, elderly people receive a uniform monthly OAA of \$1,135. May I ask, since the OALA is also in place, whether the same concept can be applied to increase the allowance for elderly people with special needs?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I thank Ir Dr LO for his supplementary question. The allowance in question is commonly known as "fruit grant", of which the current amount is \$1,135, but it will be increased in February next year with reference to the relevant index. As regards the rate of increase, there will be a detailed announcement later. No matter in Hong Kong or out of the territory, the amount of "fruit grant" payable is fixed, and there will not be any increase except for the annual adjustment.

As the Honorable Member said just now, the "fruit grant" payable to the elderly people with special needs in the Mainland, other than those who have applied for CSSA and been granted permission to spend their twilight years in Fujian or Guangdong, is a fixed amount. The same amount is applicable to the elderly people in both places, and the current rate is \$1,135, nothing else. In case of other needs, Hong Kong residents can receive support in Hong Kong, but for the time being, the arrangement for disbursement of "fruit grant" can only be extended to Guangdong. Regarding CSSA, as mentioned earlier, more than 2 000 elderly people are currently eligible for CSSA outside Hong Kong, but they must reside in Guangdong or Fujian.



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

**Provision of Medical Services to Hong Kong Elderly People Residing on the Mainland**

3. **MR WONG KWOK-KIN** (in Cantonese): *It is learnt that in recent years, quite a number of elderly people who have moved to reside on the Mainland upon retirement choose to return to Hong Kong for medical treatment when they fall ill because they are ineligible for the medical benefits on the Mainland, unable to afford the high medical cost and have more confidence in the quality of the medical services in Hong Kong. Yet, travelling a long distance to Hong Kong for medical treatment may aggravate their illnesses and has to incur travel expenses. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of times the elderly persons residing on the Mainland returned to Hong Kong for medical treatment in the past five years, whether it has assessed the demand of such elderly people for medical services in Hong Kong, and whether it has formulated policies to offer support to these elderly people; if it has, of the details; if not, the reasons for that;*
- (b) *whether it knows the numbers of registered medical practitioners in Hong Kong who have applied for practising, setting up clinics or establishing hospitals on the Mainland since the Mainland authorities implemented the liberalization measures for the medical sector under the framework of "Mainland and Hong Kong Closer Economic Partnership Arrangement" (CEPA), as well as the number of such practitioners currently engaged in the relevant practices on the Mainland; whether the authorities have looked into ways to collaborate with medical organizations on the Mainland operated by Hong Kong people to provide medical services there for the Hong Kong elderly persons residing on the Mainland, so as to reduce their need to return to Hong Kong for medical treatment; and*
- (c) *given that some local medical organizations have recently collaborated with Mainland medical organizations in providing*

*medical services on the Mainland (for example, the University of Hong Kong collaborating with the Shenzhen Municipal Government to operate the University of Hong Kong-Shenzhen Hospital), whether the authorities have considered collaborating with such organizations to implement a pilot scheme to extend the coverage of the Elderly Health Care Voucher Scheme to medical services on the Mainland, as well as perfecting the policy of "portable welfare benefits" in the long run; if they have, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, my reply to the question raised by Mr WONG is as follows:

- (a) Under the existing policy, all Hong Kong residents are eligible for the public healthcare services which are heavily subsidized by the Government. The Hospital Authority (HA) and the Department of Health have not compiled statistics specifically on patients who are cross-boundary travellers. Nor have they collected information on whether the elderly patients are residing in the Mainland. As such, figures of elderly persons who reside in the Mainland and return to Hong Kong for medical treatment are not available.

Nevertheless, in projecting the demand for public healthcare services, the HA takes full account of the needs of all eligible persons, and will not overlook the public healthcare services demand of Hong Kong residents who have moved to the Mainland. Looking ahead, we will continue to review the demand for various healthcare services and plan service development in the light of demographic growth and changes, medical technology advances, healthcare manpower, and so on, to meet the needs of the community.

- (b) In terms of sole practice, under the framework of the CEPA, Hong Kong permanent residents who meet the qualifications stipulated in the CEPA may apply to take the Mainland's qualification examination set for three specialties, namely clinical medicine, dental medicine and traditional Chinese medicine. A "medical

practitioner's qualification certificate" of the relevant specialty will be issued by the National Health and Family Planning Commission (NHFPC) to those who have passed the examination. Hong Kong permanent residents with specialist doctor qualification can obtain the Mainland's "medical practitioner's qualification certificate" through accreditation. Besides, CEPA allows 12 types of statutory healthcare professionals registered in Hong Kong (including medical practitioners, Chinese medicine practitioners and dentists) to provide short-term services in the Mainland. The maximum duration of the licence for short-term practice is three years. On expiry, the licence for short-term practice is renewable. In other words, medical practitioners who are legally qualified to practise in Hong Kong are not required to take the Mainland's qualification examination for the purpose of short-term practice in the Mainland. According to the NHFPC, 195 Hong Kong permanent residents had passed the Mainland's qualification examination and 47 Hong Kong specialists had obtained the Mainland's "medical practitioner's qualification certificate" through accreditation as at December 2012. However, we do not have the statistical information on the Hong Kong registered medical practitioners practising in the Mainland through the CEPA arrangements.

Regarding the setting up of clinics or hospitals in the Mainland, there were 72 medical institutions established by Hong Kong service suppliers under joint venture or contractual joint venture through the CEPA framework as at December 2012. The eye hospital opened in Shenzhen in March 2013 was the first hospital wholly-owned by Hong Kong residents established through CEPA.

On collaboration with Hong Kong-operated healthcare institutions in the Mainland to provide healthcare services for elderly Hong Kong residents residing there, we have to make detailed plans about specific arrangements, work out the technicalities and ensure prudent use of public money. When appropriate, the Administration will discuss with relevant stakeholders details of any pilot scheme.

- (c) In 2009, the Administration launched the Elderly Health Care Voucher Pilot Scheme to subsidize Hong Kong residents aged 70 or

above to use private primary healthcare services. The annual voucher amount has been gradually increased from the initial \$250 to \$1,000, and the Scheme will be converted into a recurrent programme in 2014.

Following the launch of the Guangdong Scheme on 1 October 2013, we are looking into the case for providing portability of Elderly Health Care Vouchers, hence allowing those who choose to reside in the Mainland after retirement to use the vouchers to pay for primary healthcare services provided by designated hospitals and clinics in certain Mainland cities. The University of Hong Kong-Shenzhen Hospital is one of the pilot options to be examined.

**MR WONG KWOK-KIN** (in Cantonese): *President, earlier this year, the Federation of Trade Unions conducted a survey on the elderly who have resided in China. In the survey, hundreds of elderly persons were interviewed. In response, they very much hoped that they could be provided with the following support in the Mainland: First, medical service; second, living allowance for the elderly; and third, service of care and attention homes. One can imagine that the demand for medical services by the elderly people residing in the Mainland is keen. I am glad that in his reply to the previous question, Secretary Matthew CHEUNG said that the authorities would study the feasibility of disbursing the Old Age Living Allowance (OALA) to elderly people who choose to reside in Guangdong after the Guangdong Scheme has been implemented for one year. In his main reply, Dr Secretary KO also said that the Government is studying the portability of the Elderly Health Care Vouchers. May I ask the Secretary of the progress of the study on the use of the Elderly Health Care Vouchers by elderly people residing in the Mainland? Is there any timetable for this?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, the Elderly Health Care Vouchers under our study is a bit different from the OALA because the purpose of the Elderly Health Care Voucher Pilot Scheme (the Scheme) is to enable the elders to see the doctor or undergo medical check-ups in medical institutions providing primary healthcare services in Hong Kong, and*

these service providers have participated in the Scheme. The relevant medical institutions or individual professionals are required to participate in the Scheme so that authentication and fee arrangements can be made on the computer system of the Department of Health (DH). In terms of technicalities, this is a bit more complicated than the OALA. Therefore, we can only say that we are studying the portability of the Elderly Health Care Vouchers in the hope that elderly people who choose to reside in the Mainland after retirement can use the vouchers in designated hospitals or clinics in certain Mainland cities. Why did I say so? Because the same arrangements are made in Hong Kong. The medical institutions or individual professionals who have participated in the Scheme have to make arrangements with the computer system of the DH in order to make use of the vouchers.

**MR TANG KA-PIU** (in Cantonese): *I would like to ask a question in connection with the survey mentioned by Mr WONG Kwok-kin just now. In fact, we have received a case concerning a residential care home for the elderly set up by the Hong Kong Society for Rehabilitation at Yantian. The Hong Kong elder who is living in this residential care home frequently goes to the Prince of Wales Hospital for follow-up appointments. The traffic expense is \$500 for each visit. In addition, the person who accompanies the elder to cross the boundary has to carry nutrient drip and medication which are regarded as milk and prohibited from being carried across the boundary. The expenses are high and the custom clearance procedure is very complicated. Both of these factors have deterred those elderly Hong Kong people who plan to live in Mainland residential care homes or lead a retirement life in the Mainland from doing so. So, I have this question for the Secretary a question. First, you said there are no statistics on the number of patients who are cross-boundary travellers. Can you tell me whether the authorities will actively study the setting up of such a statistical mechanism for keeping of statistics? Secondly, will you provide special support to the residential care home for the elderly I mentioned just now to help resolve their difficulties?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in part (a) of my main reply, I have made it clear that there are no relevant statistics because patients who return to Hong Kong for medical treatment in the hospital may have a lot of choices when declaring their addresses. Some people may declare their addresses in Hong Kong. The addresses they declare depend on

how long they stay in the Mainland and Hong Kong respectively and it makes a big difference.

But anyway, if we only look at the addresses declared by patients when seeking medical treatment at medical institutions in Hong Kong, I can provide some statistics on the declared addresses in 2012-2013. In 2012-2013, the number of attendance in specialist out-patient clinics by people with addresses in the Mainland is around 4 900; the number of attendance at Accident and Emergency Departments by people with declared addresses in the Mainland is 3 400; the number of in-patients and day hospital patients with declared addresses in the Mainland is 1 900. The percentages are 0.07%, 0.15% and 0.12% respectively. All in all, the proportion of patients who have declared their addresses in the Mainland is around 0.1%.

**PRESIDENT** (in Cantonese): Mr TANG, has your supplementary question not been answered?

**MR TANG KA-PIU** (in Cantonese): *Will the authorities provide special support to the residential care home I mentioned earlier? In fact, there are only two such elderly homes in Guangdong.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I do not quite understand the question from Mr TANG. Will Mr TANG please further elaborate his question.

**PRESIDENT** (in Cantonese): Mr TANG, you have in fact asked two different questions. Please elaborate them.

**MR TANG KA-PIU** (in Cantonese): *But my questions originate from the same case. The elderly people who stay in the elderly home run by the Hong Kong Society for Rehabilitation in Yantian face difficulties in undergoing custom clearance and expensive transport expenses. Will the Government provide special support to them?*

**PRESIDENT** (in Cantonese): Please repeat the name of the institution in your question.

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I understand the situation he mentioned. But I do not understand his question. He has only described the situation.

**PRESIDENT** (in Cantonese): Please repeat your supplementary question. Did you ask the Secretary which elderly home should be provided support?

**MR TANG KA-PIU** (in Cantonese): *What assistance will be provided to the elderly people living in the elderly home to clear customs more easily and will convenient transport arrangements be made for them so that they can go to the Prince of Wales Hospital in a more convenient way?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): At present, Hong Kong residents living in the Mainland who have to return to Hong Kong for medical treatment due to any reason may call the Immigration Department's hotline at 1868 and then seek assistance from the duty officer upon arrival at the border control point. Ambulance service will be arranged for them after their entry into Hong Kong.

**MISS ALICE MAK** (in Cantonese): *President, the relevant figures mentioned by the Secretary earlier are not high. I would like to point out why. The reason is that upon arrival at the hospital, the elderly people will be asked to provide their addresses in Hong Kong. We have assisted in the conveyance of elders to the hospital and they are required to provide their contact addresses in Hong Kong. Therefore, the relevant figures cannot reflect how many elderly people have settled in the Mainland.*

*My supplementary question is as follows. The Secretary mentioned earlier that the Government is considering providing medical service to the elderly people through the University of Hong Kong-Shenzhen Hospital. Does the Government have any relatively specific plans or timetable? Secretary*

*Matthew CHEUNG also said earlier that the major problem faced by the elderly who have settled in the Mainland is medical service. Can the Government help them solve the problem of receiving medical service in the Mainland?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, as I have explained earlier, a study is being conducted because of many technicalities, including the need for the relevant medical institutions to network with the DH in order to authenticate the identity of the patients. The patients do not really hold healthcare vouchers. Instead, they have opened accounts in the computer system of the DH which indicate their balances. Therefore, the institution or professional has to authenticate whether the patient concerned has participated in the Scheme by connecting their computer with the computer of the DH. If the patient is a participant, the system will show his balance before any relevant arrangement can be made. This will take some time. I really cannot present Members with a timetable. But we are actively considering ways to solve the technicalities in this regard. In addition, there is another technical problem, such as the exchange rate between Renminbi and Hong Kong dollar if the elderly people use the vouchers in the Mainland. These are the technical problems we have to solve.

**MR NG LEUNG-SING** (in Cantonese): *President, in paragraph (c) of the main reply, it is mentioned that following the launch of the Guangdong Scheme, the Government is looking into the portability of the Elderly Health Care Vouchers. I believe this is a very constructive and realistic proposal. May I ask whether a public consultation will be launched on the study of this issue in the future? Which organizations or institutions will be invited to participate in the study?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, regarding Mr NG's supplementary question, the Government will launch a public consultation before a new policy or procedure is introduced because it wishes to know to what extent the policy or procedure is accepted by the public. But this time around, we wish to roll out the arrangement and a consultation may not be necessary. Nevertheless, we will communicate with the stakeholders and our focus will be placed on resolving the technicalities instead.



**DR ELIZABETH QUAT** (in Cantonese): *President, many elderly Hong Kong people living in the Mainland will return to Hong Kong for medical treatment only when they are critically ill or in an emergency condition because they want to save the transport expenses and the fear that they may not be able to support themselves in Hong Kong after receiving medical treatment. Upon arrival at a border control point, they will call an ambulance to deliver them to the hospital for medical treatment like the Secretary said just now. May I ask the Bureau whether there are any statistics on the annual number of elderly people who called ambulances for sending them back to Hong Kong for medical treatment at border control points? Will this affect the quality of our ambulance service and aggravate the burden on Hong Kong's healthcare service in the long term? How will the Bureau cope with the increasing number of such cases in the future?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, I do not have such information on hand, but I will check whether I can provide such information in writing to Dr QUAT. (Appendix I)*

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

### **Regulation of Private Residential Care Homes for Elderly**

4. **MR ALAN LEONG** (in Cantonese): *President, in 2009, a staff member of a private residential care home for the elderly (RCHE) was convicted of feeding an elderly person with faeces. It has been reported that earlier on, a staff member of a private RCHE was also found to have repeatedly assaulted an elderly person by hitting her head with a broomstick, twisting her hands backwards, slamming her head against the door frame and slapping her, and so on. It has been learnt that the Social Welfare Department (SWD) has so far not yet instituted any prosecution against these two RCHEs. Some organizations servicing the elderly have relayed to me that the aforesaid incidents are just the tip of the iceberg as the management and quality problems of private RCHEs have been a long-standing issue. They have pointed out that as elderly persons who need the highest level of care will be granted the Higher Disability Allowance and the Special Diet Allowance, they are able to pay for higher home fees. Some private RCHEs, despite their inadequate manpower, have still strained to admit this type of elderly persons. However, because of the heavy*

*workload, the staff of such RCHEs have become short-tempered, resulting in some of them abusing the elderly residents. In this connection, will the Government inform this Council:*

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

- (a) whether the aforesaid abusive acts of staff of RCHEs against elderly persons are prohibited under the Residential Care Homes (Elderly Persons) Ordinance; if so, why the Government so far has not yet instituted prosecution against the two RCHEs; if such acts are not prohibited, whether the Government will amend the Ordinance;*
- (b) of the current number of elderly recipients of Comprehensive Social Security Assistance (CSSA) residing in private RCHEs and, among them, the number of those who are receiving a monthly payment of less than \$5,500; whether the Government will increase the amounts of payments for the elderly residing in private RCHEs so as to enable them to choose RCHEs of better service quality; if it will, when this will be implemented; if not, of the reasons for that; and*
- (c) whether the Government will consider making reference to the grading system of subsidized RCHEs and classifying private RCHEs into different grades according to their care capability and prohibiting private RCHEs from admitting elderly persons whose care needs are beyond their care capability, so as to reduce the occurrence of incidents of elderly abuse; if it will, when this will be implemented; if not, of the reasons for that and whether the Government allows private RCHEs to continue to admit elderly persons indiscriminately regardless of their care capability?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, my reply to the questions raised by Mr Alan LEONG as follows:

- (a) We do not tolerate any act of elderly abuse. The SWD will handle any suspected elderly abuse incidents in RCHEs seriously. Apart from referring the cases concerned to the police for criminal

investigation, the SWD will collaborate with different disciplines of professionals to investigate and handle the cases in accordance with the "Procedural Guidelines for Handling Elderly Abuse Cases" as well as to provide suitable support services for the affected elderly persons. Furthermore, the Licensing Office of Residential Care Homes for the Elderly (LORCHE) of the SWD will issue advices, warnings or directives, depending on the nature and level of seriousness of the cases involved. The LORCHE will also conduct more frequent inspections of the RCHEs concerned and monitor if remedial measures have been implemented by the RCHEs concerned.

The two elderly abuse cases which occurred in the RCHEs mentioned in Mr LEONG's question happened in 2009 and September 2013 respectively. Upon receipt of the case reports, the police took prompt action by conducting investigation and initiating prosecution. The staff involved in the 2009 case was convicted of four counts of assault and sentenced to imprisonment for six months by the Court, while the staff involved in the September 2013 case was convicted of two counts of assault and sentenced to 120 hours' community service. At the same time, the LORCHE of the SWD investigated the cases immediately and arranged social workers to provide counselling service and support to the elderly persons concerned. Upon completion of investigation, the LORCHE issued warning letters to the RCHEs in question, and the Director of Social Welfare has directed remedial measures to require the two RCHEs to take follow-up action according to section 19 of the Residential Care Homes (Elderly Persons) Ordinance.

- (b) Under the CSSA Scheme, elderly persons enjoy a more relaxed level of asset limit and higher standard rates as compared to able-bodied adults. A number of special grants and supplements are also available to cater for special needs of elderly persons. Since June 2012, all CSSA recipients aged 60 or above who occupy non-subsidized residential care places for the elderly can also receive a monthly Residential Care Supplement of \$275. Elderly persons can use the CSSA payments received flexibly and choose the suitable RCHEs that meet their individual needs.

As at end-September 2013, there were some 26 000 elderly CSSA recipients residing in non-subsidized RCHEs. The average monthly CSSA payments for elderly CSSA recipients residing in these private RCHEs were around \$6,760 during the period between October 2012 and September 2013. As the amount of monthly CSSA payments for each elderly CSSA recipient may be adjusted according to his/her actual circumstances, the SWD cannot provide the number of recipients who received a monthly payment of less than \$5,500 on average during the above period.

- (c) At present, in order to operate nursing homes or RCHEs (depending on the level of care), both subsidized and private RCHEs are required to meet the basic requirements under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance or the Residential Care Homes (Elderly Persons) Ordinance and apply for licences. In addition, the Code of Practice for Residential Care Homes (Elderly Persons) issued by the SWD sets out the principles, procedures, guidelines and standards for the operation and regulation of RCHEs for compliance by RCHEs staff. RCHEs are required to employ staff according to the requirements for the type of homes under the legislation and the Code of Practice in order to meet the needs of different residents. Having regard to the ever-changing needs for care services, the SWD also issues circulars and guidelines to RCHEs from time to time for enhancement of services and quality. Regular training and talks are also jointly conducted by the SWD, the Department of Health and the Hospital Authority (HA) for RCHE staff to enhance their knowledge and skills in taking care of elderly residents and to improve their service quality.

If the health condition of elderly residents in RCHEs deteriorate to the extent that they would require a higher degree of professional medical or nursing care, they or their family members can seek assistance from social workers to arrange for assessment by the Community Geriatric Assessment Team or through the Standardized Care Need Assessment Mechanism for Elderly Services, with a view to being put on the waiting list for placement at subsidized care and attention homes or nursing homes, or infirmary places under the HA as appropriate.

**MR ALAN LEONG** (in Cantonese): *Deputy President, in part (a) of the main reply, the Secretary seems to be avoiding the thrust of the issue. On the two cases to which I have referred, he has replied that the two staff members of the RCHEs concerned have been convicted of criminal offences and punished. But my focus is on the RCHEs. How are the RCHEs concerned punished or handled under the Residential Care Homes (Elderly Persons) Ordinance?*

*Deputy President, as you also know, this is related to the licensing system. Since these two staff members are found to have abused elderly persons, in following up the cases with the RCHEs, the Secretary only says towards the end of part (a) of the main reply that "the Director of Social Welfare has directed remedial measures to require the two RCHEs to take follow-up action according to section 19 of the Residential Care Homes (Elderly Persons) Ordinance." May I ask the Secretary what will be done if the RCHEs concerned do not act according to the remedial measures issued by the Director of Social Welfare and implement them? Is the Secretary a toothless tiger that can do nothing about these RCHEs? Is it because those guidelines do not carry any legal effect? Is this the case?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I thank Mr LEONG for the concern expressed. We are very concerned about these incidents as well. We have not spared any efforts in combatting cases in which criminality may be involved, nor have we made any delay. The cases concerned were handed over to the police for criminal investigation. As Members can see, the two persons concerned in these cases have been sentenced, one to imprisonment for six months and the other to 120 hours of community service. This shows that we do pay attention to these incidents.

Since these incidents are already dealt with, I point out in part (a) of the main reply that the Director of Social Welfare has directed remedial measures be adopted. For example, the RCHEs concerned are to make substantial improvements in manpower and service quality. When improvements are to be made, we will make blitz inspections during the course and monitor these RCHEs closely. If similar offences are found or that these RCHEs are adamant and refuse to improve and co-operate, we will impose further sanctions. With respect to these two incidents, the RCHEs concerned are willing to co-operate

and take remedial measures as directed. We will not condone any RCHEs which violate the requirements and fail to meet the prescribed standards. These RCHEs will not be allowed to operate. We will not allow such things to happen.

**MR MICHAEL TIEN** (in Cantonese): *Deputy President, now elderly persons admitted to RCHEs are required to have their children signed a statement that they will not provide financial support to their parents (commonly known as the "bad son statement"). Therefore, they cannot give any spare money to their parents of any amount according to their financial capability. This is a rather inhumane practice as the children are not allowed to show any filial piety to their parents at all.*

*May I ask the Secretary whether the Government will consider allowing children whose parents live in private RCHEs to provide part of the financial support to their parents and pay a capped amount and I would call this a "good son's money" for the time being which can be, say, 30% of the standard rate of CSSA so that it will enable the elderly persons to buy some better service? If the Government will not give this consideration, what are the reasons?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I thank Mr TIEN for the question and concern. For elderly persons living in private RCHEs, if they do not receive any CSSA, that is, they are not CSSA recipients, their children are not required to sign any "bad son statement". Now many elderly persons living in private RCHEs receive CSSA. It is not our intention to cause any inconvenience to elderly persons, and we have explained on numerous occasions that CSSA is based on individual families. As each family has the responsibility to provide mutual assistance and support to its members, we would work out the income of a household and the difference will be provided by CSSA as a kind of assistance to make up for the gap between income and living expenses. So we would think that if families are not subject to any vetting and approval, it will lead to a big problem in the effective use of resources. This is a major policy consideration to us, but we do appreciate Members' concern.

Now the Commission on Poverty (CoP) has a Social Security and Retirement Protection Task Force which has begun to study how these problems can be solved and whether there are any methods which do not contradict our policies while being convenient to elderly persons. We are exploring the possibilities and the Task Force is studying these issues.

**MR MICHAEL TIEN** (in Cantonese): *Can I take the Secretary to mean that, as I have said that with special reference to elderly persons living in private RCHEs and on CSSA, the Government can consider allowing their children to provide partial financial assistance to their parents? Has the Secretary just confirmed that the CoP will explore the possibilities in this regard?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I think I have to clarify a bit the question highlighted by Mr TIEN. This paper which is commonly called a "bad son statement" is a declaration of financial situation and it is to be filled in by all CSSA applicants, not being confined to elderly persons. For this reason, we are studying in the CoP whether or not a more macro perspective should be used to consider this problem instead of, as suggested by the Member, allowing the provision of subsidy by family members. This would be another issue. The message generally is how to deal with problems arising from the filling of this form. We are examining whether or not there are ways to deal with the problems.

**MR TAM YIU-CHUNG** (in Cantonese): *Deputy President, may I ask the Secretary whether elderly persons on CSSA can live in the two RCHEs in Guangdong operated by Hong Kong organizations, one of which is in Zhaoqing and the other is in Yantian? Can elderly persons pay for the relevant fees with CSSA payments?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I have to thank Mr TAM. Now some of the residents in the two RCHEs in Zhaoqing and Yantian are elderly persons from Hong Kong and some of them are on CSSA. Therefore, my answer is yes. But they must belong to the scope of application under the scheme. However, a broader question is, as Mr IP Kwok-him asked earlier, whether the Government will consider making fuller use of these two RCHEs so that elderly persons from Hong Kong can choose to lead their retirement life in Guangdong and live in these two RCHEs, and whether the Government will allow them to carry their subsidy there? We are considering this question and we share the same view as that put forward by the Member just now. These elderly persons are eligible to live in the RCHEs and they are waiting for their turns. If they choose to live in these two RCHEs,

do we allow such flexibility as permitting them to carry their subsidy to Guangdong? We are now looking at this issue in depth. Thanks for the suggestion.

**MR CHEUNG KWOK-CHE** (in Cantonese): *Deputy President, the Government says that the private RCHEs are currently operated under licences granted under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance. But we know that provisions in the Ordinance are very loose and we know clearly that both the SWD and the police will follow up incidents reported by the media. However, there are many elderly persons, especially those suffering from senile dementia, who are subject to poor service attitude or verbal insults by the staff and it can be said that they do not have any personal dignity at all.*

*It was stated in the main reply just now that every elderly CSSA recipient can receive some \$6,000 a month and, that is, some \$80,000 a year. Of the 26 000 elderly CSSA recipients, an amount of \$2.1 billion is placed in the private RCHEs through the elderly recipients. But if the service quality of these private RCHEs is so poor, should we not enhance our regulation of these private RCHEs?*

*We also know that the Licensing Office of the SWD does carry out inspections. But manpower is not enough and there are so few staff in the headquarters, so how can all the private RCHEs be inspected? Some social workers have told us ...*

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

**MR CHEUNG KWOK-CHE** (in Cantonese): *... the staff in the District Social Welfare Offices of the SWD can inspect the private RCHEs in the districts concerned. May I ask the Secretary whether the relevant powers can be devolved to the staff of the District Social Welfare Offices of the SWD so that they can carry out the inspections?*



**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): I have to thank Mr CHEUNG for his supplementary question. Over the past three years, the SWD carried out a total of as many as 5 000 inspections of RCHEs every year. At least seven blitz inspections will be conducted on every RCHE each year. Work in this aspect does meet the relevant target. As the Member said just now, there are not many staff in the Licensing Office of the SWD, but with proper staff deployment, each private RCHE will be blitz inspected at least seven times a year. I can therefore say that work in this respect can meet the target fully.

The Member asked whether or not SWD staff at the district level can carry out the inspections, if problems and difficulties are encountered, the District Social Welfare Officer or Social Welfare Officer will be informed. The most important thing is smooth flow of information and we can know from word of mouth which RCHE operates well or poorly. So our colleagues would pay special attention to RCHEs with a high risk or poor record.

In addition, we have a notification system whereby we would post leaflets in each RCHE to inform the family members of the elderly. In fact, the most effective monitors are family members. When family members go to the RCHE to visit the elderly persons, they will know how the service quality is like. If there are any problems with the service of RCHEs, we encourage them to call the SWD at the 24-hour hotline at 2343 2255, and we will take follow-up action. We will continue to engage in monitoring work by adopting a multi-pronged approach to ensure that the service quality of RCHEs meet the requirements.

**MR CHAN CHI-CHUEN** (in Cantonese): *Hong Kong is full of poor-quality RCHEs and this is an indisputable fact. Now the question is how to regulate these RCHEs and combat and penalize those substandard ones.*

*I am also a victim. My mother lives in a RCHE and it is not that she has been bullied by the staff there but by other inmates. She has been beaten up by them. Why? Because there is a manpower shortage in the RCHE and this is especially the case during the night and these cases of violence cannot be stopped in time.*

*I would like to focus on the blitz inspections mentioned by the Secretary. It does not matter how often these blitz inspections are conducted. Members of this Council have heard complaints by some members of the public about certain RCHEs being informed of such blitz inspections beforehand. Then what would they do? They will borrow workers from nearby RCHEs and if these nearby RCHEs cannot provide enough manpower, they will go to the streets to find extras. Secretary, if this is the case, then whatever law or regulation in place will become non-existent. May I ask the Secretary if he is aware of this? What will the Secretary do when these blitz inspections are in fact intimated to the relevant parties?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I thank Mr CHAN for the supplementary question. As the name blitz inspection suggests, it is impromptu. I have taken part in such blitz inspections with my colleagues. At that time, the staff of the RCHE were very surprised. When we arrived at the RCHE, the first thing we did was to take away and keep the records of the punch card machine before we entered the RCHE. This was to ensure that the RCHE did not have the excuse of finding people to come to work or put up the excuse that some staff were late for work. In this way, we are able to take control of the entrances and exits of the RCHE. Then our colleagues would carry out the inspection very seriously. And as I have just said, the family members or relatives who visit the elderly persons may provide much useful information and based on this, we will take follow-up action. I wish to emphasize that we will not condone those RCHEs which offer a poor service. If any Member of this Council receives any complaint about any RCHE providing poor service, he or she can contact us anytime and we will certainly take action.

**MR CHAN CHI-CHUEN** (in Cantonese): *Then Secretary, have you received any reports on the leaking of information related to blitz inspections?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, it is very difficult for me to say that there is one or two such cases or not. At times when our colleagues have reached the RCHE, the staff might say

that the person in charge is not there and they had to call that person by telephone. But in general, blitz inspections are carried out suddenly or it will lose its meaning and become a visit instead. The meaning of a blitz inspection is that the party concerned is unaware of the action beforehand and hence is at a loss as to how to react. It is only in such circumstances that it is meaningful. We will try all means to ensure that the inspections are confidential and the information will not be leaked so that the best results can be achieved.

**DR FERNANDO CHEUNG** (in Cantonese): *Deputy President, there is a divergence in the quality of services provided by private RCHEs and this situation has not seen any improvement after so many years. The Government always says that inspections are constantly carried out. But we are always hearing such cases. The question from Mr Alan LEONG mentions two very serious cases of elderly abuse and the result is only a warning issued. After so many years, when will the Government address squarely the problem of poor service quality of private RCHEs?*

*May I ask the Secretary how many private RCHEs saw their licences revoked during the past five years as a result of serious elderly abuse cases or non-compliance with the Residential Care Homes (Elderly Persons) Ordinance?*

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I thank Dr CHEUNG for the supplementary question. Now there are over 500 private RCHEs in Hong Kong and as I said earlier, regarding those two RCHEs in which elderly abuse cases took place in 2009 and this year, we took immediate action and referred the cases to the police for action. The persons concerned were sentenced. The staff member in the case in 2009 was sentenced to imprisonment for six months and the staff member in the case in September 2013 was sentenced to a community service order of 120 hours.

Under certain circumstances, we can shorten the licence period of particular RCHEs and if we have sufficient grounds, we can refuse to renew the licences of these RCHEs. Moreover, we know that there is a high degree of transparency regarding the RCHEs and as we know, there is a webpage of the SWD onto which the names of all RCHEs found to have breached the

requirements are uploaded. We will also keep a clear record of the successful prosecution cases and all the information concerned is uploaded onto the webpage for public access. Also, we will disclose the licensing situation of the RCHEs to the public and the period of licence in the past and at present. This is meant for reference by members of the public so that they can know the quality of the RCHEs. We hope that members of the public can join us in monitoring these RCHEs, though we will take the greatest responsibility. We will continue to carry out stringent inspections and enforcement action, and also follow up cases of non-compliance. Thank you, Dr CHEUNG.

**DEPUTY PRESIDENT** (in Cantonese): Dr CHEUNG, is your supplementary question not answered?

**DR FERNANDO CHEUNG** (in Cantonese): *Deputy President, the supplementary question which I raised just now is: How many RCHEs had their licences revoked during the past five years? The Secretary has not given a reply to that.*

**DEPUTY PRESIDENT** (in Cantonese): The Secretary has given a reply. Secretary, do you have anything to add?

**SECRETARY FOR LABOUR AND WELFARE** (in Cantonese): Deputy President, I have mentioned some examples earlier. I do not have any actual information about the cases on hand. I can give supplementary information in writing to Members after the meeting. In some cases, we will shorten the licence period of the RCHEs concerned. For example, the original licence period is 24 months. We will shorten it to 12 months or 18 months. This is meant to be a penalty or a sanction. I will give the supplementary information to Members after the meeting. (Appendix II)

**DEPUTY PRESIDENT** (in Cantonese): Fifth question.

**Domestic Free Television Programme Service Licences**

5. **MR FREDERICK FUNG** (in Cantonese): *Deputy President, the Government announced on 15 October this year the decision made by the Chief Executive in Council on domestic free television programme service licence (the licence) applications. Among the three applicants, two were granted approval-in-principle whereas the other one was unsuccessful ("cherry-pick two out of three"). When explaining the decision on 5 November, the Secretary for Commerce and Economic Development said that, according to the analyses contained in the consultancy reports (reports), the market would be able to sustain the operation of three operators (including the two existing licensees), and perhaps four operators under a favourable market condition, but it could hardly sustain a total of five players. Holding the view that a gradual and orderly approach should be adopted in introducing competition to the domestic free television (free TV) market, the authorities thus made the decision to cherry-pick two out of three. Subsequently, the managing partner of the consultancy firm which wrote the consultancy reports disclosed to the media that her firm had not suggested to cherry-pick two out of three for the issue in question. In addition, she considered that the Government might have misled the public by incomprehensively citing the reports out of context, and its decision was based on outdated data analyses. She stated clearly that she would be willing to explain the reports to the Executive Council so as to avoid any misunderstanding among the Executive Council Members. She also described the Government's act of adding new assessment criteria after the applicants had submitted their applications as an act tantamount to "race fixing". In this connection, will the Government inform this Council:*

- (a) *whether it has examined if the Secretary for Commerce and Economic Development's remarks concerning the capacity of the free TV market mentioned in the reports contradict the aforesaid comments made by the managing partner; whether it has assessed if errors or personal preferences might have been involved when the reports were being consolidated or interpreted at the initial stage, which has led to the conclusion that a gradual and orderly approach should be adopted in introducing competition into the free TV market; if it has assessed, of the details; whether the authorities will invite the consultancy firm to explain the reports to the Executive Council; of the remedial measures available should errors be detected after the assessment; whether the Government will conduct afresh another public consultation or consultancy study on the option of cherry-picking two out of three;*

- (b) *as the Chief Executive has indicated that the Government will seriously follow up and deal with the aforesaid comments made by the managing partner, of the details concerning the Government's follow-up action and efforts in dealing with the comments; whether the authorities will re-examine the entire process of vetting and approval of licence applications, including if decisions had been made on the basis of outdated data analyses and if altering the assessment criteria after receiving applications was unfair to the applicants, and so on; if they will, of the details; if they will not, the reasons for that; and*
- (c) *given the strong views expressed by members of the public on the Government's decision on the licence applications and some Executive Council Members' comments on the significant discrepancy between the decision and the public's demand and expectations, whether the authorities will, taking into account the latest situation, listen to the views of the public and respond accordingly to start afresh the process of vetting and approval of the licence applications, and grant licences to all three applicants which have met the requirements; if they will not, of the reasons for that?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Before replying to Mr Frederick FUNG's main question, I would like to first make a few clarifications. On 15 October 2013, the Government announced that the Chief Executive in Council had decided to grant approval-in-principle to the applications of Fantastic Television Limited (Fantastic TV) and HK Television Entertainment Company Limited (HKTVE) for a free TV programme service (free TV) licence, and reject Hong Kong Television Network Limited (HKTVN)'s application (the Decision). Subsequently, the Government has on different occasions publicly explained the assessment criteria and the reasoning leading to the Decision. The Government has also elucidated the 11 relevant factors which the Chief Executive in Council took into consideration before making the Decision. These factors are: The three applications; the recommendation submitted by the former Broadcasting Authority (now the Communications Authority) (hereafter collectively referred to as the "Authority"); the statutory requirements under the Broadcasting Ordinance (Cap. 562); the assessment criteria in the Authority's "Guidance Note for Those

Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong"; sustainability of the free TV market as a whole; the consultant (the "Consultant")'s reports on the impact of introducing new competitors on the competition environment of the free TV market (the Consultant's Reports) (including the Consultant's assessment of the relative competitiveness of each applicant); all representations/responses by relevant parties, and all relevant documents; all relevant latest developments; all public views received; the Government's prevailing broadcasting policy; and public interest.

As the Government has repeatedly emphasized when explaining the Decision, the Consultant's Reports are but one of the many factors that the Chief Executive in Council took into account when considering the three applications. The Government has never stated that the Decision was the recommendation in the Consultant's Reports. In fact, the 11 factors, apart from the Consultant's Reports, also include the consideration of all representations submitted by the relevant parties subsequent to the completion of the Consultant's Reports and the latest market situation. In the course of processing the applications, the Chief Executive in Council had disclosed the relevant information to all applicants, including the Consultant's Reports, the Administration's inclination to adopt a gradual and orderly approach in introducing competition into the free TV market, and the four assessment criteria. The applicants had been given ample time and opportunities to submit rounds of representations on these matters, the Consultant's relevant assessments as well as other relevant issues. Thus, the requirement of procedural fairness was adhered to throughout the process.

In brief, the Chief Executive in Council had considered a vast volume of information and made a holistic assessment in accordance with the established system, procedures and policies before reaching the Decision in a prudent manner.

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

- (a) One of the study items covered in the Consultant's Reports was to analyse, based on the business plans and estimates submitted by the three applicants, the impact on the free TV market in Hong Kong if licences were to be granted to them. In this regard, the Consultant's findings revealed that the local free TV market might not be able to

sustain five players. Such information has been set out in the Legislative Council Brief issued by the Government on 15 October 2013 and the paper submitted by the Authority to the Legislative Council Panel on Information Technology and Broadcasting on 7 November 2013. It is a factual statement about the Consultant's relevant findings. While the Authority's recommendation is not the same as the Decision made by the Chief Executive in Council, their factual statements about the Consultant's findings on the sustainability of the applicants and licensees in the free TV market are consistent. This clearly illustrates that the Government has never twisted the Consultant's findings.

Moreover, I would like to clarify that the Government has never requested the Consultant to make any recommendation on the gradual and orderly approach in introducing competition or whether approval should be granted to the three applications. In fact, apart from matters in relation to the Consultant's Reports, the Consultant was not involved in other procedures in processing the three applications. For example, the Consultant did not take part in rounds of representations submitted by the applicants on matters such as the Consultant's Reports and relevant assessments, as well as the Administration's inclination to adopt a gradual and orderly approach in introducing competition into the free TV market. The Consultant's Reports were but one of the many factors that the Chief Executive in Council took into account in assessing the three applications. As such, we consider that the Consultant's remarks were probably based on incomplete information and misunderstandings about its role and the Decision. I wish to reiterate that the Chief Executive in Council, having regard to the 11 factors, had decided that it would be in the public interest to adopt a gradual and orderly approach in introducing competition into the free TV market, while not precluding the possibility of allowing more free TV operator(s) as and when appropriate.

- (b) We are surprised and perplexed with the recent remarks publicly made by the Consultant on the Decision. In the deliberation of various policy issues, the Government would from time to time seek consultants' advice and refer to such advice when making a decision.



Generally speaking, unless invited by the Government, the consultants concerned should not participate in any open discussion on the items which they were commissioned to study or issues relevant to those items, let alone getting themselves involved in the relevant political discussions which may cause the public to call their objectiveness and neutrality into question. This is the most basic professional ethical requirement one would expect from any person serving as a consultant. The Consultant's disregard on this occasion of its professional ethics getting itself involved in the political discussions is much regretted. As regards the Consultant's remarks about the licensing matter, the Government considers such action inappropriate and finds it in conflict with the role of a consultant. We disagree with the personal views expressed by the Consultant, and note that it has some misunderstandings about the Government's licensing policy and procedures. The Government hopes that the Consultant will respect the spirit of contract and maintain the neutrality as a consultant.

- (c) The Chief Executive in Council made the Decision after a holistic consideration of all relevant factors. The Government appreciates the public concern over the outcome of the three applications, and understands the different views expressed by various parties on different occasions. The Chief Executive in Council had already taken into account the public views before making the Decision. The Government has repeatedly explained that notwithstanding that there is no prescribed ceiling on the number of licences to be issued under the prevailing policy and legislation, it cannot be interpreted as that any applicant meeting certain basic requirements must be granted a licence. Whether a licence is granted is subject to the recommendations by the Authority and then the consideration by the Chief Executive in Council against all relevant factors, such as the sustainability of the free TV market as a whole. The Chief Executive in Council considers that the Decision will reap the benefits of introducing competition into the free TV market while at the same time minimize any possible adverse impact on the free TV market as a whole. Not only is the Decision in line with the established broadcasting policy, but it also ensures the healthy development of the free TV market for the protection of public interest.

If the two applicants to whom approvals-in-principle were given are finally granted licences, it will be the first time in 40 years that new operators are introduced into the free TV market. The Government will continue to complete the residual work relating to the free TV licence applications in a fair and prudent manner, with a view to introducing more competition into the free TV market as soon as possible for the provision of more and better programming choices to the public.

**MR FREDERICK FUNG** (in Cantonese): *Deputy President, the Secretary did not reply to part (b) of my main question. In my introductory remarks, I pointed out that when announcing that two out of three applicants had been cherry-picked, the Secretary said that according to the analyses in the Consultant's Reports — this can be found in line five of my main question — the market would be able to sustain the operation of three operators, and perhaps four operators under a favourable market condition, but it could hardly sustain a total of five players. Therefore, it was necessary to "cherry-pick two out of three".*

*Part (b) of my supplementary question says that the Chief Executive has indicated that the Government will follow up the relevant matter but the reply given by the Secretary only stresses that "the Government considers such action inappropriate" and that "the consultants concerned should not participate in any open discussion". Deputy President, the Secretary has resorted to saying this to evade my supplementary question. As the Secretary, he once offered the explanation stated in the main question but his reply now demands that the Consultant "keep quiet". Has the Secretary disregarded the Chief Executive's comments on that day that the Government would follow up and deal with this matter seriously, or did the Chief Executive make this matter out to be more serious than it actually is and subsequently, in order to protect the Secretary, he refrained from taking follow-up actions? Which one is actually the case?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, the main reply has made it very clear that the job of the Consultant is to conduct studies on the effects of licensing on the whole market and it also carried out analyses on the relative competitiveness of individual applicants. This area is one of the factors considered by the

Executive Council and a larger number of dimensions were considered by the Executive Council. Therefore, in the main reply, I have already explained very clearly the role played by the Consultants and the holistic consideration by the Executive Council.

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

**MR FREDERICK FUNG** (in Cantonese): *Deputy President, I did not ask him about the role of the Consultant. It was him who talked about the role of the Consultant in the first place. My supplementary question is ...*

**DEPUTY PRESIDENT** (in Cantonese): Please point out which part of your supplementary question has not been answered.

**MR FREDERICK FUNG** (in Cantonese): *... on that day, he claimed that the decision to cherry-pick two out of three was made according to the Consultant's Reports but now, the Consultant said that no recommendation on cherry-picking two out of three had been made, rather, it was considered that granting three licences was also feasible. Obviously, the ground cited by the Secretary at that time was a lie!*

**DEPUTY PRESIDENT** (in Cantonese): The question asked by you is already very clear. Secretary, do you have anything to add?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I have made it very clear in my reply that the scope of advice offered by the Consultant commissioned this time around did not include the issue of "cherry-picking two out of three", so there is no question of the Executive Council not heeding the recommendations of the Consultant. As I said just now, in the process of hiring the Consultant, the Executive Council required the Consultant to assess the effects on the market, not making recommendations on "cherry-picking two out of three".

**MS CLAUDIA MO** (in Cantonese): *The Secretary has definitely given everyone the impression that he is telling lies, to our great regrets. However, all people have a sense of natural justice. If Members look at part (b) of the main reply ...*

**DEPUTY PRESIDENT** (in Cantonese): Ms MO, please ask your supplementary question.

**MS CLAUDIA MO** (in Cantonese): *I am going to ask my supplementary question now. In part (b) of the main reply, the Secretary attacked a consultancy and it is really inconceivable that the Government would take such a course of action. This is just like LEUNG Chun-ying issuing a legal letter to Mr LIAN Yizheng, but the only difference lies in the fact that what the Government targets this time around is not a scholar but a private company ...*

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

**MS CLAUDIA MO** (in Cantonese): *My supplementary question is: Does the Secretary dare debate with the person in charge of the consultancy face to face?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I believe the supplementary question asked by Ms MO is devoid of logic. The aim of commissioning the Consultant was to provide some analyses to the Executive Council in its course of dealing with the applications for free TV licences and these analyses were submitted to the Executive Council which considered these analyses as well as other relevant factors, including the latest market condition, before making a decision. I believe the work in this regard has been completed.

**MS CLAUDIA MO** (in Cantonese): *Sorry, but he said explicitly that the Consultant lacked professional ethics ...*

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

**MS CLAUDIA MO** (in Cantonese): *The Consultant has the right to debate with him face to face ...*

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

**MS CLAUDIA MO** (in Cantonese): *Will he debate with the Consultant face to face?*

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, in my reply just now, I said that the work in this regard had been completed and that the relevant process had also been completed. What we have to do now is to complete the whole licensing exercise as soon as possible.

**MR TAM YIU-CHUNG** (in Cantonese): *Deputy President, the Government issued a five-page press release on 5 November saying that when considering the three applicants' financial capability, their controlling companies' market capitalization, profitability, assets, and so on, had been taken into consideration. However, as queried by many people, since the law requires that the Executive Council cannot grant a licence to a subsidiary company, what is the point of considering the financial capability of the controlling companies of the applicants?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr TAM for his supplementary question. Deputy President, in the motion debate last month, I mentioned and explained that according to

section 83 of the Broadcasting Ordinance, it is true that the Executive Council cannot issue a licence to a subsidiary company. However, the legislation does not prohibit subsidiary companies from making applications for free TV licences either. In other words, a company making an application can be a subsidiary company but it must undertake to carry out corporate restructuring after its application has been given approval-in-principle, so as to meet the legal requirement of not being a subsidiary company.

In this regard, Fantastic TV and HKTVE have undertaken to carry out corporate restructuring if they are given approvals-in-principle and they have also sought independent legal advice which confirmed that the requirements of not being a subsidiary company can be met after restructuring. Before the Executive Council formally grants the licences, the situation of Fantastic TV and HKTVE after restructuring will certainly be examined and the views of the Legal Department will also be considered when deciding if these two companies meet the requirements of the relevant legislation.

**MR CHARLES PETER MOK** (in Cantonese): *Deputy President, the Secretary has just been repeating his reply. I found that part (b) of his main reply says the Government notes that the Consultant has some misunderstandings about the Government's licensing policy and procedures. The problem now is that perhaps all members of the Hong Kong public have some misunderstanding of the Secretary. The introductory remarks of Mr Frederick FUNG's main question make it very clear that the Government cited the Reports out of context and misled the public. Since the Secretary had made wrongful accusations against and shifted the responsibilities onto the Consultant, it had to come forward to ensure a correct understanding of the facts. Even people who paid money (for a service) cannot act wantonly and for the sake of public interest, professionals have to say "no" to people in power. This can only be regarded as exemplary professional ethics.*

*Since the Authority has now said that it does not agree with the view of the Executive Council, the Secretary said that the view of the Authority was different from that of the Executive Council. However, prior to this, that was not the claim of the Secretary. In addition, before the Consultant had expressed its views, the Secretary did not say that there was any instance of quoting out of context. My supplementary question is: Since the Consultant's Reports were only one of the considerations of the Executive Council, why can the Consultant's*

*Reports not be disclosed, thus making it necessary for us to spend time on a motion debate on invoking the P&P Ordinance? If the Secretary now undertakes to disclose the Consultant's Reports immediately, perhaps we can save some of the meeting time because Ms MO would perhaps withdraw her motion. Therefore, my supplementary question is: Before the real answer that would cause a stir is exposed, can the Secretary tell this Council the true reason why the Government cannot submit the Reports?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I have made it very clear in the main reply that concerning some factual statements in the Consultant's Reports, if Members have ever noticed, be it in the paper submitted to the Panel on Information Technology and Broadcasting on 7 November or the paper submitted to the Legislative Council on 15 October, the statements in this regard are consistent, so the situation described by Members, that is, comments containing inconsistent information and causing a stir would be exposed, does not exist.

The Policy Bureau concerned has explained a number of times that the Consultant's Reports were one of the components and factors considered by the Executive Council, so due to the confidentiality system of the Executive Council — I have also explained this to Mr MOK a number of times before — usually, these documents would not be disclosed because they are some of the documents used to assist the Executive Council in making the Decision.

**MR CHARLES PETER MOK** (in Cantonese): *Deputy President, is this the only reason? Does the Secretary mean that the confidentiality rule of the Executive Council is the only reason?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, I have already explained this matter a number of times, so I have nothing to add.

**MR WU CHI-WAI** (in Cantonese): *Deputy President, the Government said frequently that HKTVM, which was not granted a licence, could apply again but in part (a) of the main reply, it is said that the objective environment can hardly*

*sustain five players. May I ask the Secretary if, when the Authority receives a new application, the previous criteria will be adopted in making a decision, or if such criteria as a gradual and orderly approach and the inability of the market to sustain five players will be adopted in deciding whether or not a new application would be supported?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, first, at present, there is no new application pending vetting and approval, so I cannot express any views on this. In addition, according to the requirements of the relevant legislation, it is the Authority that undertakes the initial work in this regard, then makes recommendations to the Executive Council for consideration. In this regard, I believe the Authority will deal with future applications appropriately.

**MR WU CHI-WAI** (in Cantonese): *Deputy President, in fact, what I am asking is whether or not the Government has given the new criteria to the Authority as the basis for processing applications.*

**DEPUTY PRESIDENT** (in Cantonese): The Secretary has already replied clearly. Secretary, do you have anything to add?

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, the established procedures and laws on this are already very clear. I believe the Authority will follow the relevant procedures and laws and regulations in processing the relevant applications.

**MR NG LEUNG-SING** (in Cantonese): *Deputy President, part (b) of the main reply says that the Government is surprised and perplexed with the recent remarks made publicly by the Consultant. Since the standard of the Consultant chosen has deviated from the Government's expectations, in the face of this experience and lesson, may I ask the Secretary if it is necessary to conduct a review of the arrangements for selecting consultants?*



**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): The position of the Government on this is stated clearly in my main reply. We believe that any consultant commissioned should respect the spirit of the contract and abide by and maintain the neutrality and objectivity that consultants should display. I believe that when commissioning any consultant, these are the factors that must be taken into consideration.

**DEPUTY PRESIDENT** (in Cantonese): Last oral question.

### **Corrupt Practices Involving Building Maintenance Works**

6. **MS EMILY LAU** (in Cantonese): *Deputy President, I have learnt that some lawbreakers have secured major maintenance contracts of a number of housing estates by means of bid-rigging, bribing and intimidating, and made huge profits from these works. The exorbitant maintenance costs have posed heavy financial burdens on many owners, and even led to violent confrontations between owners and members of owners' corporations (OCs). Recently, some members of the construction industry and a former staff member of the Independent Commission Against Corruption (ICAC) have commented that bid-rigging and price jacking practices involving building maintenance works are very common and the building maintenance industry has been monopolized by syndicates. In this connection, will the Executive Authorities inform this Council:*

- (a) *of the number of corruption reports received by the ICAC which involved building maintenance works, and the respective numbers of people who were arrested, prosecuted for and convicted of the related offences, in each of the past five years, as well as the penalties generally imposed by the Courts on the convicted persons, with a breakdown by identity of these persons (including members of OCs as well as staff of consulting engineers, contractors and property management companies);*
- (b) *whether they have looked into the gravity of the problem of tendering exercises for building maintenance works being manipulated by syndicated bid-rigging; and*

- (c) *apart from the "Renosafe Scheme" jointly launched by the police in collaboration with the relevant government departments and organizations in September this year, and the new tendering arrangement applicable to "registered general building contractors", whether they have formulated other measures to prevent and combat corruption involving building maintenance works, and whether they will allocate more resources to curb the problem?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): Deputy President, building maintenance works of large-scale housing estates usually incur substantial costs. Relevant government departments have been highly vigilant in the potential involvement of lawbreakers in such works by employing unlawful means to make profits. Departments have been working very closely to implement a number of measures, which include (i) helping the public to take precaution against unlawful activities pertaining to building maintenance works; (ii) gathering intelligence on the activities of unscrupulous organizations; and (iii) taking enforcement actions in the light of reports and intelligence received.

(THE PRESIDENT resumed the Chair)

My reply to Ms Emily LAU's question is as follows:

- (a) The numbers of corruption complaints received by the ICAC relating to building maintenance works, persons prosecuted and persons convicted over the past five years are at Annex. The ICAC does not maintain any breakdown by identity of these persons.
- (b) The ICAC and the Hong Kong Police Force (HKPF) will actively follow up reports made by the public or referrals from relevant organizations, and conduct in-depth investigation into corruption practices and other unlawful acts in connection with building maintenance works.

The Urban Renewal Authority (URA) and the Hong Kong Housing Society (HKHS), the implementation agencies of the "Operation

Building Bright" (OBB) as well as other building maintenance assistance schemes, have been closely monitoring the tendering exercises of relevant building maintenance contracts. While they observe that the tender prices in some cases may deviate from the market level, there has been no concrete evidence suggesting prevalence of syndicated bid-rigging.

- (c) The Government is very concerned about the crimes in relation to building maintenance works. Relevant departments are working together and adopt a multi-pronged approach, including launching publicity and education programmes, enhancing procedures, strengthening support for the owners and OCs, and carrying out investigation and enforcement actions, to prevent unlawful activities in the course of building maintenance works.

For publicity and education, the ICAC and the HKPF, in collaboration with the Home Affairs Department (HAD), the URA and the HKHS, and so on, have been providing OCs and owners with information on corruption and crime prevention as well as guidelines on the tendering of building maintenance works. Pursuant to the Building Management Ordinance (Cap. 344), we have issued the Code of Practice on Procurement of Supplies, Goods & Services and the Code of Practice on Building Management & Maintenance so that OCs can follow the rules and principles therein in the course of planning and tendering. Moreover, the ICAC will publish in mid-December the new edition of the Building Maintenance Toolkit, offering more effective anti-corruption advice on how to deal with common problems as well as providing checklists and templates for OCs' and owners' reference. At district level, District Offices and the ICAC frequently organize education and publicity activities to promote integrity building management. The ICAC also visits OCs to elucidate anti-corruption laws and point out the areas that are prone to corruption and bribery. Through the RenoSafe Scheme, the HKPF provides OCs intending to carry out building maintenance works with a booklet, listing possible crimes arising from improper handling of building maintenance works and offering advice on crime prevention. For those buildings already participating in the Scheme, posters or banners will be displayed at

conspicuous positions of the building to strengthen publicity and deterrent effect.

On the law-enforcement front, the ICAC and the HKPF have been actively following up on and investigating all complaints and reported cases. Recently, the HKPF has set up a special working group under its Organized Crime and Triad Bureau. Through the newly launched Renosafe Scheme, the respective District Anti-Triad Squad will maintain direct contact with the OCs and owners concerned, and invite them to report to the police information of crime relating to building maintenance works with a view to stepping up its intelligence gathering efforts.

As regards strengthening support for the OCs and owners, the HAD, through the Building Management Professional Advisory Service Scheme, has engaged professional property management companies to assist target buildings to establish OCs, assist OCs in taking forward maintenance works and to follow up on tender matters. Moreover, the HAD is liaising with professional institutes to launch a pilot scheme to offer professional advice and support for engaging Authorized Persons or works consultants to those OCs without engaging a PMC and intended to carry out large-scale maintenance.

Besides, the HKHS and the URA enhance from time to time the procedures and arrangements of the OBB and other schemes with a view to eradicating bid-rigging. For instance, consultancy firms participating in the tendering exercise are required to submit to the OC working time allocation tables of Authorized Persons and relevant professionals so as to allow the OC to have sufficient information to evaluate whether the cost to be charged by the firms are reasonable, thereby avoiding the risk of bid-rigging owing to low cost. Independent consultants are also engaged to provide the participating buildings with estimated costs for the maintenance items in order to facilitate the OC in assessing whether the tender prices are comparable with the market level. Apart from sending notifications of works eligible for OBB subsidies, independent professional assessment and points-to-note to property owners, the HKHS and the URA will participate in OC meetings and organize briefings in different stages to explain matters of attention in planning maintenance works so as to enhance owners' knowledge of building maintenance and provide technical support. The HKHS

and the URA have recently launched the new tendering arrangement for engaging contractors with the aim of further fostering an equitable, open and competitive tendering environment.

The Government calls upon and encourages owners to play an active role in building maintenance works, in particular learning more details of the works as early as possible and attending owners' meetings, and discuss with other owners on the maintenance proposals. This will help reduce disputes as well as other illegal activities.

Annex

**Corruption Complaints and Prosecution Cases relating to Building Maintenance Works Received and Made by the ICAC  
(between 2008 and 2013)**

	2008	2009	2010	2011	2012	2013 (January -October)
Complaints <sup>^</sup>	418 (355)	382 (308)	410 (352)	476 (406)	408 (347)	203 (142)
Prosecutions*	8	8	4	3	2	2
Convictions <sup>#</sup>	2	13	2	3	1	2

Notes:

( ) Figures in brackets were the number of pursuable corruption complaints.

<sup>^</sup> The figures denoted the number of corruption complaints relating to building maintenance of private domestic buildings, public housing estates and commercial buildings.

\* The figures denoted the number of persons prosecuted in that year.

<sup>#</sup> The figures denoted the number of persons convicted in that year (including those being prosecuted in the year before).

Sentences imposed on the abovementioned convicted persons:

— Sentences ranged from community service orders to an imprisonment of 18 months.

**MS EMILY LAU** (in Cantonese): *President, the Secretary mentioned in the main reply that "there has been no concrete evidence suggesting prevalence of syndicated bid-rigging", but had Members heard the questions raised by several Members earlier, they would have understood that the problem was known to everyone.*

*President, complaint figures in the past few years are presented in the Annex. It is indicated that the number of "pursuable corruption complaints" reached some 300 cases and increased to over 400 cases in 2011, but only a few persons were persecuted. Have the authorities examined the cases to identify the problems? Have the authorities obtained more information from the trade and other people, or have the authorities just adopted a "couldn't-care-less" attitude?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, upon receiving reports or complaints, the ICAC will definitely take them seriously and follow up proactively. As for the great discrepancy between the number of persecution and complaint cases, it is because no concrete evidence for initiating persecution was obtained in the course of follow-up.

**MS EMILY LAU** (in Cantonese): *I asked him whether he has discussed with the trade and Members in view of the numerous complaints at present. Has he collected more information and make additional efforts?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as I mentioned in the main reply earlier, various government departments, including the HAD, the HKPF and the ICAC, and so on, will maintain close liaison with various parties, including owners and professional bodies, to listen to their views.

**MRS REGINA IP** (in Cantonese): *President, many Members are concerned about the problem of bid-rigging, and the first oral question is about the "Mandatory Building Inspection Scheme". The Secretary for Development told us to refer our queries to the Secretary when we came to the relevant question. I would like to ask the Secretary a question about the point he had repeated once and again, that the ICAC and the HKPF would investigate the cases, but the*

*number of persecutions is low. Does he know that the Government had persecuted the cooked-food stalls in Shum Shui Po for bid-rigging but lost its case? Upon the commencement of the Competition Ordinance, the First Conduct Rule may sanction the act of bid-rigging. Will the Secretary confirm this point? Will the Secretary tell Members when the Competition Ordinance will come into effect and whether he will strive for the early commencement of the Ordinance?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, the Competition Ordinance has been passed by the Legislative Council. I know that the relevant government departments are working proactively on the establishment of the Competition Commission and the Competition Tribunal. When the basic framework has been set up, the Government will bring the Competition Ordinance into effect as soon as possible. Rightly as Mrs Regina IP said, the conduct of bid-rigging is listed as serious anti-competitive conduct and subject to the regulation of the Competition Ordinance. The Competition Ordinance will cover such conduct in this aspect.

**MR JAMES TO** (in Cantonese): *President, I would like to tell the Secretary that his remark that "there has been no concrete evidence suggesting prevalence of syndicated bid-rigging" does not tally with the feeling and analysis we gathered from the cases we have come across at the districts in general. President, since the amount of money at stake is enormous, some syndicates may even buy a building in order to form the OC and become a member of the OC in order to have active participation. This arrangement is more cost-effective. Triad societies no longer need to collect "guarding bounty", for they can make enough money by merely taking part in this kind of activities.*

*Since the conduct is carried out in great secrecy and involves an enormous amount of money, the law-enforcement agencies concerned may not be able to collect the intelligence required even if members of OCs or locals are requested to provide information on crimes involving building repairs works to the police. If that is the case, may I ask whether the Government will proactively consider the use of "informer fees" and undercover operations to crush these bid-rigging syndicates?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as I mentioned in the main reply, the relevant departments have taken proactive measures to collect intelligence. In particular, the HKPF have recently set up a special working group under the Organized Crime and Triad Bureau to specialize in the investigation of crimes relating to building repairs works. The departments concerned will take different suitable approaches to collect intelligence for purposes of performing their law-enforcement duties.

**PRESIDENT** (in Cantonese): Mr TO, has your supplementary question not been answered?

**MR JAMES TO** (in Cantonese): *President, I asked the Government whether it will buy intelligence from "informers".*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, regarding the law-enforcement and investigation approaches adopted by the police, I will not make any comments here.

**MR RONNY TONG** (in Cantonese): *I believe the Secretary does not know the laws of Hong Kong well. According to the Prevention of Bribery Ordinance, if the target of bid-rigging is government projects, it is illegal, but if the target is private building works, it is not illegal.*

*President, according to the Annex provided by the Secretary in the main reply, the figures are only related to corruption complaints and persecutions, which are irrelevant to the bid-rigging problem now under discussion. Though the conduct of bid-rigging is subject to the regulation of the Competition Ordinance, it is not listed as a criminal offence. Actually, should the Government not consider amending the Prevention of Bribery Ordinance to stipulate bid-rigging concerning private building works as a criminal offence?*



**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, it is true that under the existing Competition Ordinance, the conduct of bid-rigging involves civil proceedings. However, for cases involving bid-rigging in building works, particularly that of large housing estates, it usually involves criminal offences like intimidation, blackmail, criminal damage and even corruption and bribery. In that event, the HKPF and the ICAC will intervene.

**MR RONNY TONG** (in Cantonese): *The Secretary does not understand my supplementary question. The criminal offences he mentioned just now will definitely be subject to persecution, but under the existing Ordinance, bid-rigging involving government works contravenes the Prevention of Bribery Ordinance, which is a criminal offence. My supplementary question is: Will the authorities consider amending the relevant provisions to include bid-rigging in private building works and criminalize such conduct?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, the Competition Ordinance was passed by the Legislative Council not long ago, we have to wait for the establishment of the relevant organizations to implement the Ordinance. Regarding the introduction of criminal provisions under the Competition Ordinance, I am afraid it may be too early at the present stage to do so.

**MR RONNY TONG** (in Cantonese): *President, he has not answered my supplementary question.*

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

**MR RONNY TONG** (in Cantonese): *I asked him whether the Prevention of Bribery Ordinance would be amended, but not requesting him to amend the Competition Ordinance. President, I have repeated this thrice and the Secretary should have heard that clearly.*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, regarding the need to amend the Prevention of Bribery Ordinance, I will refer this to the relevant department for study.

**MR KWOK WAI-KEUNG** (in Cantonese): *I have put forth the same supplementary question to the Secretary for Development earlier and I will now pose this question to the Secretary for Home Affairs.*

*For bid-rigging, such conduct is usually convicted on the charge of fraud or making false declaration, but the penalty for such offences is relatively light, failing to impose a deterrent effect and reflect the actual situation. Since the problem of bid-rigging involves the money which small owners made by toil, may I ask the Secretary whether a heavier penalty on bid-rigging will be imposed in future to serve as an effective deterrent and to protect the rights and interests of small owners?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as Mr TONG pointed out earlier, the conduct of bid-rigging is subject to civil proceedings, which does not involve criminal sentence and penalty. However, if bid-rigging involves conduct like intimidation, blackmail and corruption and bribery, it will be a criminal case and the relevant department will take law-enforcement action.

**MR KWOK WAI-KEUNG** (in Cantonese): *President, my supplementary question asked whether the Government will increase the criminal liability of bid-rigging, and it is not related to intimidation and bribery.*

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

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, sorry, according to the Competition Ordinance passed, bid-rigging will not incur any criminal sentence or penalty.

**MR ALBERT HO** (in Cantonese): *President, according to the main reply of the Secretary, it seems that the Secretary has underestimated the pervasiveness and gravity of the problem. As mentioned in the Secretary's main reply, various departments have adopted a passive role in addressing the problem only when it arises. The gravity of the problem is not restricted to the conduct of bid-rigging but also the penetration of triad societies in these activities to affect the consultant companies and the offer of bribes to OCs or management companies. Various unlawful acts are involved in the course, including intimidation, blackmail and luring, and so on.*

*President, the present practice can in no way solve this serious problem. May I ask the Secretary whether he will propose the establishment of an inter-departmental working group to identify more proactive ways to assist the public in tackling the problem? This is a very complicated issue to the general public, for the repairs works of a building will involve over a hundred million dollars and extremely complicated contracts and tenders. In that case, the problem cannot be addressed merely through education of the public as the Secretary put it plainly.*

*Moreover, some people may be plotting to reap gains illegally ...*

**PRESIDENT** (in Cantonese): Mr HO, you have stated your supplementary question, so please be seated.

**MR ALBERT HO** (in Cantonese): *... my supplement question is very simple. Will the Secretary consider setting up an inter-departmental working group, composing of law-enforcement departments and departments responsible for promotion and education under the purview of the Secretary, to jointly examine effective approaches to protect the interests of the public?*

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): President, as I said in the main reply, the Government is highly concerned about this kind of illegal activities. It is particularly the case if triad societies are involved or intend to involve in these activities to reap gains, as Mr HO mentioned earlier. The HKPF pay great attention to these activities and will take corresponding actions. For instance, the HKPF have set up a special working group to step up efforts in collecting intelligence in this respect and take actions to combat the intervention of triad societies in building repairs works.

**MR ALBERT HO** (in Cantonese): *President, may I ask the Secretary whether he will consider setting up an inter-departmental working group to conduct an in-depth study to identify ways to improve the existing policies? Will the authorities adopt this approach?*

**PRESIDENT** (in Cantonese): Secretary, will an inter-departmental working group be set up?

**SECRETARY FOR HOME AFFAIRS** (in Cantonese): We attach great importance to the issue and the departments concerned are now working in collaboration to carry out work in this aspect.

**PRESIDENT** (in Cantonese): We have spent more than 22 minutes on this question. Oral questions end here.

## **WRITTEN ANSWERS TO QUESTIONS**

### **Means Test for Applicants for Student Financial Assistance**

7. **MRS REGINA IP** (in Chinese): *President, at present, the Government provides, through the Student Financial Assistance Agency (SFAA), various types of student financial assistance (including School Textbook Assistance (STA), Student Travel Subsidy Schemes and Subsidy Scheme for Internet Access Charges) to families with financial needs (excluding those families under the Comprehensive Social Security Assistance Scheme which directly apply to the Social Welfare Department for such assistance). As those applicants who have passed SFAA's means test and met the relevant eligibility criteria may also be granted the "enhanced travel subsidy for needy special school students" and the "additional flat-rate grant" provided by the Community Care Fund (CCF), and their children may also enjoy the "school lunch subsidy" at school provided by CCF, whether SFAA's means test mechanism can effectively verify the eligibility of the applicants and identify recipients of assistance with genuine needs is of utmost importance. In this connection, will the Government inform this Council:*

- (a) *of the staff establishment in the SFAA responsible for conducting the means test and the average time for processing an application, in each year from 2011-2012 to 2013-2014 school years;*
- (b) *of the number and percentage of the applications approved, the number and percentage of those applications randomly checked by the SFAA, and the number of those applications in which false income declaration had been uncovered and the percentage of such number in the total number of applications approved, in each year from 2011-2012 to 2013-2014 school years; and*
- (c) *whether, apart from conducting the means test, the SFAA will conduct an asset test on applicants; if not, of the reasons for that, and whether it has assessed if such a practice will result in a waste of public money and CCF's resources?*

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

- (a) The SFAA processed over 200 000 family-based applications for financial assistance for primary and secondary students each year from the 2011-2012 to 2013-2014 school years (excluding CSSA applicants). During the peak season, about 220 staff are engaged in processing applications and conducting income test each year.

As regards the time required for processing applications, in accordance with the SFAA's performance pledge, if the applicants can provide all necessary information and supporting documents to the SFAA when submitting the applications, the SFAA can normally complete the processing of applications and notify the applicants of the results within three months from the receipt of applications. Nevertheless, given the uniqueness of family circumstances, some families may not be able to provide all the necessary information and supporting documents (including personal particulars and income proofs of family members) at the time of application. In such cases, more time will be required to follow up with, and seek clarifications from, the applicants. Hence, the processing time varies from case to case.

In order that a greater number of eligible students can receive student financial assistance before the commencement of the school year, the SFAA has adopted a risk management approach and re-structured the workflow since the 2011-2012 school year to advance the disbursement of STA. Following the new workflow, majority of the applicants who are not applying for the first time (accounting for about 80% of all applications for financial assistance for primary and secondary students) could receive the textbook assistance before the start of the school year. Applicants who received textbook assistance in the previous school year and have submitted the duly completed application form together with all necessary information by the end of May could receive the textbook assistance in the first half of August if they can pass the income test of the new school year. Since the 2012-2013 school year, the SFAA has further streamlined the procedures such that the first batch of eligible applicants could receive the textbook assistance by the end of July. The processing time was overall shortened to within around two months.

- (b) When processing applications for financial assistance, the SFAA will examine the information provided by each applicant thoroughly. In respect of applications with unclear or incomplete information, the SFAA will seek supplementary information from applicants. Applications would only be approved when accurate and sufficient information is collected. In addition, supervisors of the processing teams of the SFAA conduct, from time to time, random check on cases that have been vetted by their subordinates to ensure accuracy and consistency in application processing.

Furthermore, to prevent applicants from obtaining financial assistance through misrepresentation, concealment of facts or provision of false information, the SFAA conducts authentication and detailed review on selected successful cases every year. There is a designated team in the SFAA specifically responsible for the authentication work. If overpayment of financial assistance due to misrepresentation or omission of income is found, the Authentication Team will recover the overpaid amount from the applicant. Cases

involving serious omission or suspected deception will be referred to the police for investigation.

Appended below are the numbers of applications for financial assistance for primary and secondary students, cases authenticated and cases involving misrepresentation or omission of income which necessitate the refund of subsidies from the applicants for the 2011-2012 to 2013-2014 school years are set out at Annex (application on a family basis):

<i>School year</i>	<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014 (as at mid-Nov 2013)</i>
Number of applications for financial assistance for primary and secondary students (A)	219 373	207 768	196 690
Number of successful applications for financial assistance for primary and secondary students (B)	205 073	193 260	177 210
Percentage of successful applications (C)=(B)/(A) x 100%	93.5%	93.0%	90.1%
Number of applications for financial assistance for primary and secondary students authenticated (D)	10 619	15 197*	-
Percentage against the number of successful applications for financial assistance for primary and secondary students (E)=(D)/(B) x 100%	5.2%	7.9%	-

<i>School year</i>	<i>2011-2012</i>	<i>2012-2013</i>	<i>2013-2014 (as at mid-Nov 2013)</i>
Number of cases involving misrepresentation or omission of income which necessitates refund of subsidies (F)	104	423	-
Percentage against the number of successful applications for financial assistance for primary and secondary students (G)=(F)/(B) x 100%	0.05%	0.2%	-

Note:

\* As at end October 2013

As regards the 2013-2014 school year, statistics on authentication are not yet available because the SFAA has just commenced the 2013-2014 authentication cycle for applications for financial assistance for primary and secondary students in mid-November.

As shown in the annex, after the re-structuring of the workflow in the 2011-2012 school year, the SFAA has further reviewed the overall vetting arrangement and increased the percentage of successful applications for authentication in the 2012-2013 school year to ensure that financial assistance is disbursed to students with genuine needs. To strengthen its monitoring role, the SFAA has authenticated over 15 000 applications in the 2012-2013 school year, representing an increase of 43% over the preceding year.

- (c) At present, a standard income test is adopted for assessing the eligibility of applicants for various financial assistance schemes for primary and secondary students. Asset test is not required.



The SFAA is committed to processing each application for financial assistance in a fair, just and efficient manner in order to ensure that financial assistance is provided to eligible applicants as soon as possible. Given that the SFAA has to process over 200 000 applications for financial assistance for primary and secondary students each year, there is a need to strike a balance between the proper use of public money and the timely disbursement of financial assistance to the needy applicants. We are of the view that the current practice to assess the eligibility of applicants for financial assistance for primary and secondary students by means of the income test, coupled with detailed authentication on successful cases on a random sampling mechanism, can ensure the appropriate provision of financial assistance to needy primary and secondary students and is a suitable way of operation.

### **Various Funds Established by Government**

8. **MR IP KIN-YUEN** (in Chinese): *President, in recent years, the Government has proposed from time to time in the policy addresses and budgets the setting up of new funds or injections into existing funds. Since 2008-2009, the Government has proposed the establishment of a total of 11 funds (namely the Research Endowment Fund, the Elder Academy Development Foundation, the Pilot Green Transport Fund, the Urban Renewal Trust Fund, the Community Care Fund (CCF), the Self-financing Post-secondary Education Fund, the Health and Medical Research Fund, the Elite Athletes Development Fund, the Dedicated Fund on Branding, Upgrading and Domestic Sales, the Sustainable Fisheries Development Fund and the Training Fund for Maritime and Aviation Transport), as well as 22 injections of funds into established funds (including the Samaritan Fund, the Language Fund, the Cantonese Opera Development Fund, the Arts and Sport Development Fund, the Beat Drugs Fund, the Partnership Fund for the Disadvantaged (PFD), the SME Export Marketing Fund, the SME Development Fund, the Environment and Conservation Fund, the HKSAR Government Scholarship Fund, the Research Endowment Fund, the Self-financing Post-secondary Education Fund, the Community Investment and Inclusion Fund, the Mega Events Fund, the CCF and the Employees Retraining Fund). In this connection, will the Government inform this Council:*

- (a) *of the respective amounts of annual revenue, expenditure, surplus/deficit and opening balance of the aforesaid funds from 2008-2009 to 2012-2013 (set out in tables of the same format as the table below);*

*(Name of the fund)*

<i>Year</i>	<i>Opening balance (\$ million)</i>	<i>Revenue (\$ million)</i>	<i>Expenditure (\$ million)</i>	<i>Surplus/Deficit (\$ million)</i>
<i>2008-2009</i>				
<i>2009-2010</i>				
<i>2010-2011</i>				
<i>2011-2012</i>				
<i>2012-2013</i>				
<i>*2013-2014</i>				

*Note:*

\* *As at 31 October 2013*

- (b) *among the aforesaid funds, of the respective numbers of funds the annual investment returns of which are adequate and inadequate to meet their annual expenditures; and*
- (c) *whether it currently submits reports on the financial situation of the aforesaid funds to the Legislative Council and releases the relevant details on a regular basis; if it does not, of the reasons for that?*

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Chinese): President, there are a total of 23 funds mentioned in the subject question. Their financial position and related information since 2008-2009 are detailed in the Annex.

## Annex

## 23 Funds Mentioned in the Subject Question

	<i>Name of Fund</i>	<i>Policy Bureau</i>
Funds outside the Accounts of the Government		
1.	Research Endowment Fund	Education Bureau
2.	Language Fund	Education Bureau
3.	Self-financing Post-secondary Education Fund	Education Bureau
4.	HKSAR Government Scholarship Fund	Education Bureau
5.	Environment and Conservation Fund	Environment Bureau
6.	Samaritan Fund	Food and Health Bureau
7.	Sustainable Fisheries Development Fund	Food and Health Bureau
8.	Cantonese Opera Development Fund	Home Affairs Bureau
9.	Sir David Trench Fund for Recreation — Arts and Sport Development Fund	Home Affairs Bureau
10.	CCF	Home Affairs Bureau
11.	Elite Athletes Development Fund	Home Affairs Bureau
12.	Elder Academy Development Foundation	Labour and Welfare Bureau
13.	Employees Retraining Fund	Labour and Welfare Bureau
14.	Beat Drugs Fund	Security Bureau
15.	Maritime and Aviation Training Fund	Transport and Housing Bureau
16.	Urban Renewal Trust Fund	Development Bureau
Funds under the Accounts of the Government		
17.	SME Export Marketing and Development Funds	Commerce and Economic Development Bureau
18.	Dedicated Fund on Branding, Upgrading and Domestic Sales	Commerce and Economic Development Bureau
19.	Mega Events Fund	Commerce and Economic Development Bureau
20.	Pilot Green Transport Fund	Environment Bureau
21.	Health and Medical Research Fund	Food and Health Bureau
22.	Partnership Fund for the Disadvantaged	Labour and Welfare Bureau
23.	Community Investment and Inclusion Fund	Labour and Welfare Bureau

## Various funds set up by the Government

Policy Bureau: Education Bureau

Name of Fund: Research Endowment Fund

## (A) Financial position (Funds outside the Accounts of the Government)

<i>Year<sup>(1)</sup></i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	-	18,491	15	18,476
2009-2010	18,476	1,088	136	952
2010-2011	19,428	1,164	675	489
2011-2012	19,917	6,190 <sup>(2)</sup>	789	5,401
2012-2013	25,318	1,304	663	641
2013-2014	25,959	(3)	(3)	(3)

Notes:

- (1) The accounting period for the Fund runs from 1 September to 31 August of the following year. Closing balance was at 31 August. For instance, the closing balance for 2008-2009 was as at 31 August 2009.
- (2) An injection of \$18 billion was made in 2008-2009 for establishing the Research Endowment Fund and a further \$5 billion was injected in 2011-2012.
- (3) Data for 1 September 2013 to 31 October 2013 not provided due to the short period involved.

## (B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

✓	Sufficient to cover the annual expenditure <sup>(4)</sup>
	Not sufficient to cover the annual expenditure

Note:

- (4) The Government made injection into the fund in 2008-2009 and 2011-2012 so that the investment returns of the fund can provide sustained funding support for its operating expenses. Under exceptional circumstances, the principal of the injection could be used if necessary.

## (C) Regular reporting of the fund's financial position

Reporting frequency	Yearly
Target of reporting	Legislative Council
Channel of reporting	Submission of Audited Financial Statements to Legislative Council

Policy Bureau: Education Bureau

Name of Fund: Language Fund

## (A) Financial position (Funds outside the Accounts of the Government)

<i>Year<sup>(1)</sup></i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	1,868	43	238	(195)
2009-2010	1,673	517 <sup>(2)</sup>	209	308
2010-2011	1,981	21	493	(472)
2011-2012	1,509	21	528	(507)
2012-2013	1,002	13	158	(145)
2013-2014	857	<sup>(3)</sup>	<sup>(3)</sup>	<sup>(3)</sup>

Notes:

- (1) The accounting period for the Fund runs from 1 September to 31 August of the following year. Closing balance was as at 31 August. For instance, closing balance for 2008-2009 was as at 31 August 2009.
- (2) Revenue includes government injection of \$500M in the accounting period of 2009-2010.
- (3) Data for 1 September 2013 to 31 October 2013 not provided due to the short period involved.

## (B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure

## (C) Regular reporting of the fund's financial position

Reporting frequency	Yearly
Target of reporting	Legislative Council
Channel of reporting	Submission of audited statement of accounts

Policy Bureau: Education Bureau

Name of Fund: Self-financing Post-secondary Education Fund

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year<sup>(1)</sup></i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	-	-	-
2011-2012	- <sup>(2)</sup>	3,522 <sup>(3)</sup>	37	3,485
2012-2013	3,485	65 <sup>(3)</sup>	60	5
2013-2014	3,490	<sup>(4)</sup>	<sup>(4)</sup>	<sup>(4)</sup>

Notes:

- (1) The accounting period for the Fund runs from 1 September to 31 August of the following year. Closing balance was as at 31 August. For instance, closing balance for 2011-2012 was as at 31 August 2012.
- (2) The Fund was set up in November 2011.
- (3) Revenue includes government injection of \$3,500M in the accounting period of 2011-2012 and \$20M in 2012-2013.
- (4) Data for 1 September 2013 to 31 October 2013 not provided due to the short period involved.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure <sup>(5)</sup>

Note:

- (5) The Government made injections into the fund in 2011-2012 and 2012-2013 so that the investment returns of the fund can provide sustained funding support for its operating expenses. Under exceptional circumstances, the principal of the injections could be used if necessary. In view of market volatilities, there were times when the Fund had to use a small part of the principal to finance the schemes.

(C) Regular reporting of the fund's financial position

Reporting frequency	Yearly
Target of reporting	Legislative Council
Channel of reporting	Submission of audited statement of accounts

Policy Bureau: Education Bureau

Name of Fund: HKSAR Government Scholarship Fund

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year<sup>(1)</sup></i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	1,008	12	12	-
2009-2010	1,008	17	25	(8)
2010-2011	1,000	318 <sup>(2)</sup>	32	286
2011-2012	1,286	1,054 <sup>(2)</sup>	35	1,019
2012-2013	2,305	82 <sup>(2)</sup>	77	5
2013-2014	2,310	<sup>(3)</sup>	<sup>(3)</sup>	<sup>(3)</sup>

Notes:

- (1) The accounting period for the Fund runs from 1 September to 31 August of the following year. Closing balance was as at 31 August. For instance, closing balance for 2008-2009 was as at 31 August 2009.
- (2) Revenue includes government injection of \$250M in the accounting period of 2010-2011, \$1,000M in 2011-2012 and \$20M in 2012-2013.
- (3) Data for 1 September 2013 to 31 October 2013 not provided due to the short period involved.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

✓	Sufficient to cover the annual expenditure <sup>(4)</sup>
	Not sufficient to cover the annual expenditure

Note:

- (4) The Government made injections into the fund in 2010-2011, 2011-2012 and 2012-2013 so that the investment returns of the fund can provide sustained funding support for its operating expenses. Under exceptional circumstances, the principal of the injections could be used if necessary.

(C) Regular reporting of the fund's financial position

Reporting frequency	Yearly
Target of reporting	Legislative Council
Channel of reporting	Submission of audited statement of accounts

Policy Bureau: Environment Bureau

Name of Fund: Environment and Conservation Fund

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> (\$M)	<i>Revenue</i> (\$M)	<i>Expenditure</i> (\$M)	<i>Surplus/(Deficit)</i> (\$M)
2008-2009	1,077	14	26	(12)
2009-2010	1,065	9	85	(76)
2010-2011	989	6	143	(137)
2011-2012	852	518 <sup>(1)</sup>	166	352
2012-2013	1,204	23	206	(183)
*2013-2014	1,021	5,010 <sup>(2)</sup>	126	4,884

Notes:

\* Up to 31 October 2013.

(1) Capital injection of \$500 million from the Government in June 2011.

(2) Capital injection of \$5,000 million from the Government in June 2013.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

**	Sufficient to cover the annual expenditure (2014-2015 onwards)
**	Not sufficient to cover the annual expenditure (Existing)

Note:

\*\* Up to financial year (FY) 2013-2014, the Environment and Conservation Fund (ECF) relied on the fund principal to sustain its operations. With the Legislative Council Finance Committee's approval of capital injection of \$5,000 million on 14 June 2013, starting from FY 2014-2015, the ECF would rely on the annual investment returns generated from the fund principal to support its operations.

(C) Regular reporting of the fund's financial position

Reporting frequency	Annual
Target of reporting	Legislative Council, public
Channel of reporting	Submission of report, release through Internet



Policy Bureau: Food and Health Bureau

Name of Fund: Samaritan Fund

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	338	1,064 <sup>(1)</sup>	129	935
2009-2010	1,273	76	141	(65)
2010-2011	1,208	72	227	(155)
2011-2012	1,053	65	236	(171)
2012-2013	882	10,222 <sup>(2)</sup>	292	9,930
*2013-2014	10,812	211	168	43

Notes:

\* Up to 30 September 2013.

(1) Includes Government grant of \$1,000 million in 2008-2009.

(2) Includes Government grant of \$10,000 million in 2012-2013.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure

(C) Regular reporting of the fund's financial position

Reporting frequency	Annual
Target of reporting	(1) Director of Audit (2) Legislative Council (3) Hospital Authority (HA) Board (4) Public
Channel of reporting	(1) Submission of annual accounts to the Director of Audit for audit (2) Submission of annual audited accounts for reporting (3) Submission to HA Board for endorsement (4) Release of annual operation report (which includes financial position of the Fund) through HA website

Policy Bureau: Food and Health Bureau

Name of Fund: Sustainable Fisheries Development Fund

The Sustainable Fisheries Development Fund has not yet been set up. Details of the fund will be provided in the relevant paper when the funding proposal is submitted to the Finance Committee.

Policy Bureau: Home Affairs Bureau

Name of Fund: Cantonese Opera Development Fund

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> <i>(\$M)</i>	<i>Revenue</i> <i>(\$M)</i>	<i>Expenditure</i> <i>(\$M)</i>	<i>Surplus/(Deficit)</i> <i>(\$M)</i>
2008-2009	12	20 <sup>(1)</sup>	4	16
2009-2010	28	7	9	(2)
2010-2011	26	72 <sup>(2)</sup>	9	63
2011-2012	89	1	9	(8)
2012-2013	81	4	10	(6)
*2013-2014	75	1	13	(12)

Notes:

\* Up to 31 October 2013.

(1) Including \$5M injection from the Government and \$15M donation from Sir Murray MacLehose Trust Fund.

(2) Including \$69M injection from the Government.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure

## (C) Regular reporting of the fund's financial position

Reporting frequency	(1) Reporting at least three times per year to Cantonese Opera Development Fund (CODF) Advisory Committee on the fund's financial position; (2) Submission of audit report prepared by the Audit Commission for each FY to Legislative Council and CODF Advisory Committee; and (3) Release of audit report through the Internet every year.
Target of reporting	CODF Advisory Committee, Legislative Council and public.
Channel of reporting	Submission of reports and release through Internet.

Policy Bureau: Home Affairs Bureau

Name of Fund: Sir David Trench Fund for Recreation — Arts and Sport Development Fund

## (A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> (\$M)	<i>Revenue</i> (\$M)	<i>Expenditure</i> (\$M)	<i>Surplus/(Deficit)</i> (\$M)
2008-2009	102	163 <sup>(1)</sup>	48	115
2009-2010	217	8	64	(56)
2010-2011	161	3,154 <sup>(2)</sup>	50	3,104
2011-2012	3,265	85	266	(181)
2012-2013	3,084	168	109	59
*2013-2014	3,143	95	81	14

Notes:

\* Up to 30 September 2013.

(1) Including \$150 million injection into the fund.

(2) Including \$3,000 million injection into the fund.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure <sup>(3)</sup>

Note:

- (3) The Government made injection into the fund in 2010-2011 so that the investment returns of the fund can provide sustained funding support for its operating expenses. Under exceptional circumstances, the principal of the injection could be used if necessary.

(C) Regular reporting of the fund's financial position

Reporting frequency	Annually
Target of reporting	Legislative Council, public
Channel of reporting	Release through Internet (HAB website)

Policy Bureau: Home Affairs Bureau

Name of Fund: CCF

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> (\$M)	<i>Revenue</i> (\$M)	<i>Expenditure</i> (\$M)	<i>Surplus/(Deficit)</i> (\$M)
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	300	-	300
2011-2012	300	7,160 <sup>(1)</sup>	1,192	5,968
2012-2013	6,268	775	767	8
*2013-2014	6,276	15,170 <sup>(1)</sup>	533	14,637

Notes:

\* Up to 31 October 2013.

- (1) The Government has injected \$5 billion and \$15 billion into the Fund in 2011-2012 and 2013-2014 respectively. In addition, the Government has provided an additional injection of \$1.5 billion to the Fund in 2011-2012 for implementing the programme to provide a one-off allowance of \$6,000 to new arrivals from low-income families. These injections are included in the Revenue.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure <sup>(2)</sup>

Note:

- (2) As a general principle, the Government's injection and donations received will constitute the seed capital, and the operation of the Fund will be funded by investment returns on the capital. However, the Commission on Poverty may authorize the use of the seed capital in response to special needs that may arise, taking into account the cash flow requirements of the assistance programmes and future operation of the Fund in a financially prudent manner.

(C) Regular reporting of the fund's financial position

Reporting frequency	Quarterly/half-yearly
Target of reporting	Legislative Council, public
Channel of reporting	The CCF's latest financial position will be uploaded to the CCF's website quarterly and reported to the Legislative Council Subcommittee on Poverty under the House Committee every six months. The statement of accounts of the CCF will be audited by the Director of Audit and incorporated into the financial report of the Secretary for Home Affairs Incorporated for tabling at the Legislative Council annually.

Policy Bureau: Home Affairs Bureau

Name of Fund: Elite Athletes Development Fund

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	-	-	-
2011-2012	7,000	1	67	(66)
2012-2013	6,934	285	280	5
*2013-2014	6,939	12	163	(151)

Note:

\* Up to 31 October 2013.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure <sup>(1)</sup>

Note:

- (1) The Government set up the fund with injection of \$7 billion in 2011-2012 so that the investment returns of the fund can provide sustained funding support for the Hong Kong Sports Institute's operating expenses. The principal of the injection could be used if necessary.

(C) Regular reporting of the fund's financial position

Reporting frequency	Annual
Target of reporting	Legislative Council, public
Channel of reporting	Submission of report, release through Internet

Policy Bureau: Labour and Welfare Bureau

Name of Fund: Elder Academy Development Foundation

(A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> (\$M)	<i>Revenue</i> (\$M)	<i>Expenditure</i> (\$M)	<i>Surplus/(Deficit)</i> (\$M)
2008-2009	-	-	-	-
2009-2010	-	15	-	15
2010-2011	15	-	1	(1)
2011-2012	14	5	1	4
2012-2013	18	-	2	(2)
*2013-2014	16	-	1	(1)

Note:

\* Up to 31 October 2013.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure

## (C) Regular reporting of the fund's financial position

Reporting frequency	The Director of Social Welfare Incorporated provides an annual audited statement of accounts which contains the financial statements of the Elder Academy Development Foundation
Target of reporting	Legislative Council
Channel of reporting	Submission of the audited statement of accounts

Policy Bureau: Labour and Welfare Bureau

Name of Fund: Employees Retraining Fund

## (A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> <i>(\$M)</i>	<i>Revenue</i> <sup>(1)</sup> <i>(\$M)</i>	<i>Expenditure</i> <i>(\$M)</i>	<i>Surplus/(Deficit)</i> <i>(\$M)</i>
2008-2009	4,467	888	572	316
2009-2010	4,783	256	783	(527)
2010-2011	4,256	43	758	(715)
2011-2012	3,541	66	793	(727)
2012-2013	2,814	41	823	(782)
*2013-2014	2,032	16	439	(423)

Notes:

\* Up to 31 October 2013.

- (1) Employers' obligation of paying the Employees' Retraining Levy was suspended for a period of five years from 1 August 2008 to 31 July 2013 by virtue of the Employees Retraining Ordinance (Amendment of Schedule 3) (No. 2) Notice 2008. During the suspension period, the Employees Retraining Board relied on the remainder of its Employees Retraining Fund to sustain its services and operation.

## (B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure

## (C) Regular reporting of the fund's financial position

Reporting frequency	Yearly
Target of reporting	Legislative Council and the public
Channel of reporting	Annual report to be laid on the table of the Legislative Council and uploaded to website of the Employees Retraining Board

Policy Bureau: Security Bureau

Name of Fund: Beat Drugs Fund

## (A) Financial position (Funds outside the Accounts of the Government)

<i>Year</i>	<i>Opening Balance</i> (\$M)	<i>Revenue</i> (\$M)	<i>Expenditure</i> (\$M)	<i>Surplus/(Deficit)</i> (\$M)
2008-2009	585	17	144	(127)
2009-2010	458	99	26	73
2010-2011	531	3,055 <sup>(1)</sup>	50	3,005
2011-2012	3,536	168	43	125
2012-2013	3,661	282	60	222
*2013-2014	3,883	245	141	104

Notes:

\* Up to 30 September 2013.

(1) Including additional capital injection of \$3 billion.

## (B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

✓	Sufficient to cover the annual expenditure <sup>(2)</sup>
	Not sufficient to cover the annual expenditure

Note:

(2) The Government made injection into the fund in 2010-2011 so that the investment returns of the fund can provide sustained support for its operating expenses. Under exceptional circumstances, the principal of the fund could be used if necessary. Since 2008-2009, the annual investment return of the Beat Drugs Fund has been sufficient to cover its annual expenditure, except for the first year.



## (C) Regular reporting of the fund's financial position

Reporting frequency	(1) Projects approved under the Beat Drugs Fund and the relevant project details, including the amount of grants and the project statistics, are uploaded to the website of the Narcotics Division of the Security Bureau after the projects are approved. (2) Annual submission of the audited financial statement of the Beat Drugs Fund Association to the Companies Registry in accordance with the Companies Ordinance.
Target of reporting	Public
Channel of reporting	(1) Projects details are uploaded to the website of the Narcotics Division of the Security Bureau. (2) The audited financial statement of the Beat Drugs Fund Association is submitted to the Companies Registry and is accessible by the public.

Policy Bureau: Transport and Housing Bureau

Name of Fund: Maritime and Aviation Training Fund

As the Maritime and Aviation Training Fund (MATF) has not yet been established, information on financial position and source of funding for payment of expenditure is not available. The Transport and Housing Bureau has scheduled to consult the Legislative Council Panel on Economic Development this month on the proposals for MATF. Subject to the views of the Panel, Transport and Housing Bureau plans to seek funding approval from the Finance Committee early next year, with a view to establishing the fund in 2014-2015.

Policy Bureau: Development Bureau

Name of Fund: Urban Renewal Trust Fund

## (A) Financial position (Funds outside the Accounts of the Government)

<i>Year<sup>(1)</sup></i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	-	-	-

<i>Year<sup>(1)</sup></i>	<i>Opening Balance (\$M)</i>	<i>Revenue (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Surplus/(Deficit) (\$M)</i>
2011-2012 <sup>(1)</sup>	500	3	3	-
2012-2013	500	6	14	(8)
*2013-2014	492	3	10	(7)

Notes:

\* Up to 31 October 2013.

(1) The Fund was set up on 15 August 2011 with injection of \$500 million from the Urban Renewal Authority.

(B) Annual investment return of the fund (Insert a ✓ in the box, as appropriate)

	Sufficient to cover the annual expenditure
✓	Not sufficient to cover the annual expenditure

(C) Regular reporting of the fund's financial position

Reporting frequency	Yearly
Target of reporting	Public
Channel of reporting	Uploaded to Fund's website

Policy Bureau: Commerce and Economic Development Bureau

Name of Fund: SME Export Marketing and Development Funds

(A) Financial position (Funds under the Accounts of the Government)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	519	-	257	262
2009-2010	262	1,000	421	841
2010-2011	841	-	346	495
2011-2012	495	1,000	298	1,198 <sup>(1)</sup>

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2012-2013	1,198	-	275	923
*2013-2014	923	-	148	775

Notes:

\* Up to 31 October 2013.

(1) Adjusted to \$1,198M due to rounding.

(B) Annual investment return of the fund

Not applicable
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(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account.
	Others:

Policy Bureau: Commerce and Economic Development Bureau

Name of Fund: Dedicated Fund on Branding, Upgrading and Domestic Sales

(A) Financial position (Funds under the Accounts of the Government)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	-	-	-

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2011-2012	-	-	-	-
2012-2013	-	1,000	43	957
*2013-2014	957	-	23	934

Note:

\* Up to 31 October 2013.

(B) Annual investment return of the fund

Not applicable
----------------

(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account.
	Others:

Policy Bureau: Commerce and Economic Development Bureau

Name of Fund: Mega Events Fund

(A) Financial position (Funds under the Accounts of the Government)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	-	-	-	-
2009-2010	100	-	7	93

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2010-2011	93	-	16	77
2011-2012	77	-	17	60 <sup>(1)</sup>
2012-2013	9 <sup>(1)</sup>	-	7	2 <sup>(2)</sup>
	150 <sup>(3)</sup>	-	17	133
*2013-2014	133	-	6	127

Notes:

\* Up to 31 October 2013.

- (1) The three-year \$100 million Mega Events Fund approved by Legislative Council in May 2009 expired by end March 2012 and the closing approved commitment balance is \$60 million. While around \$9 million was reserved in 2012-2013 for paying the outstanding balance in respect of those MEF supported events completed before end March 2012, the remaining balance of \$51 million lapsed automatically by end March 2012.
- (2) The balance of the respective reserved funding has lapsed.
- (3) On 27 April 2012, the Legislative Council approved the allocation of \$150 million to the MEF and extend its operation for five years.

(B) Annual investment return of the fund

Not applicable
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(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account.
	Others:

Policy Bureau: Environment Bureau

Name of Fund: Pilot Green Transport Fund

(A) Financial position (Funds under the Accounts of the Government)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	-	-	-
2011-2012	300	-	-	300
2012-2013	300	-	4	296
*2013-2014	296	-	3	293

Note:

\* Up to 31 October 2013.

(B) Annual investment return of the fund

Not applicable
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(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account.
	Others:

Policy Bureau: Food and Health Bureau

Name of Fund: Health and Medical Research Fund

(A) Financial position (Funds under the Accounts of the Government)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	-	-	-	-
2009-2010	-	-	-	-
2010-2011	-	-	-	-
2011-2012 <sup>(1)</sup>	1,415	-	18	1,397
2012-2013	1,397	-	61	1,336
*2013-2014	1,336	-	50	1,286

Notes:

\* Up to 31 October 2013.

- (1) The Health and Medical Research Fund was established in December 2011 by consolidating the former Health and Health Services Research Fund (HHSRF) and Research Fund for the Control of Infectious Diseases (RFCID), with an additional capital injection of \$1 billion. The figures included a provision of \$238 million which has been earmarked for projects already approved under the former HHSRF and RFCID but have not been released to the research organizations due to project progress. It is anticipated that the Fund's cash flow requirement will increase in the coming few years.

(B) Annual investment return of the fund

Not applicable
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(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account.
	Others:

Policy Bureau: Labour and Welfare Bureau

Name of Fund: Partnership Fund for the Disadvantaged

(A) Financial position (Funds under the Accounts of the Government)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	179	-	17	162
2009-2010	162	-	26	136
2010-2011	136	200	33	303
2011-2012	303	-	46	257
2012-2013	257	-	47	210
*2013-2014	210	-	19	191

Note:

\* Up to 31 October 2013.

(B) Annual investment return of the fund

Not applicable
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(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account.
✓	<p>Others:</p> <p>(1) The PFD Secretariat reports the progress of the funding position regularly in the meetings of the Advisory Committee of PFD which are held on quarterly basis.</p> <p>(2) The grant approved for individual PFD project in each round of application are uploaded onto the webpage of PFD.</p> <p>(3) The Social Welfare Department reports the updated position of PFD to the Legislative Council Panel on Welfare Services as and when required. The latest report was in the meeting on 16 April 2013.</p>



Policy Bureau: Labour and Welfare Bureau

Name of Fund: Community Investment and Inclusion Fund

(A) Financial position (Funds under the Accounts of the Government and Lotteries Fund)

<i>Year</i>	<i>Opening approved commitment balance (\$M)</i>	<i>Increase in commitment (\$M)</i>	<i>Expenditure (\$M)</i>	<i>Closing approved commitment balance (\$M)</i>
2008-2009	237	-	19	218
2009-2010	218	-	19	199
2010-2011	199	-	32	167
2011-2012	167	-	30	137
2012-2013	137	200	23	314
*2013-2014	314	-	11	303

Note:

\* Up to 31 October 2013.

(B) Annual investment return of the fund

Not applicable
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(C) Regular reporting of the fund's financial position (Insert a ✓ in the box, as appropriate)

✓	The approved commitment, cumulative expenditure and balance will be published in the annual Estimates of the General Revenue Account and Fund Accounts.
	Others:

**Designation of Marine Parks**

9. **MISS CHAN YUEN-HAN** (in Chinese): *President, earlier on, I attended a seminar organized by a green group, which focused on marine parks and the conservation of marine life. The green group pointed out that the Government had procrastinated the designation of additional places as marine parks, resulting in the continued deterioration of the ecological environment in some waters of Hong Kong. In this connection, will the Government inform this Council:*

- (a) *of the respective places of outlying islands that meet the preliminary eligibility conditions and can be further considered for designation as marine parks at present, as well as the areas of the relevant places that can be designated as marine parks; whether the authorities will implement the relevant plans; if so, of the details, including the implementation timetable; if not, the reasons for that; of the difficulties currently encountered by the Government in the process of designating marine parks;*
- (b) *given that the authorities have undertaken to designate the Brothers Islands (BIMP) as a marine park in accordance with the statutory process, so that it can provide a habitat for Chinese white dolphins, whether the Government will implement the plan shortly; if so, of the estimated manpower and other resources to be committed each year; if not, the reasons for that, and whether it will undertake to implement the plan in the next three years; if it will, of the details; if not, the reasons for that;*
- (c) *given that the Country and Marine Parks Board pointed out earlier that Southwest Lantau, Soko Islands and south Lamma Island possessed the conditions for becoming marine parks, whether the authorities will expeditiously set an implementation timetable in this regard; if so, of the details; if not, the reasons for that; and*
- (d) *whether the authorities will extend the areas covered by the existing marine parks; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, there are currently four marine parks and one marine reserve in Hong Kong. They were Hoi Ha Wan Marine Park, Yan Chau Tong Marine Park, Sha Chau and Lung Kwu Chau Marine Park, Tung Ping Chau Marine Park and Cape D'Aguiar Marine Reserve, covering a total area of 2 430 ha.

In South Lantau and the Islands District, the Government has a plan to designate the Southwest Lantau and Soko Islands as marine parks for the protection of Chinese White Dolphins. In 2009, we consulted the relevant fishermen organizations, the Tai O Rural Committee and the South Lantau Rural Committee again on these two proposed marine parks. They had reservations over the management measures to be implemented for the marine parks (such as vessel speed restrictions) and worried that the designation of the new marine parks would further reduce the fishing grounds in Hong Kong waters, and therefore do not support the proposed designation. In this connection, we would have to follow up and fully discussed with stakeholders on the arrangements before taking forward the plan to designate the proposed marine parks. At the present stage, the Government will carry out preliminary preparatory work and will continue to conserve and monitor the population of Chinese White Dolphins in the waters around Fan Lau and Soko Islands through the existing Conservation Programme for Chinese White Dolphins.

Study has been conducted earlier to investigate the feasibility of designating South Lamma as a marine park. The study finding indicated that the coastal waters of South Lamma supported marine fauna of ecological value, mainly being green turtle and finless porpoise. Sham Wan of South Lamma has been designated as a Restricted Area under the Wild Animals Protection Ordinance (Cap. 170) subsequently to protect the nesting ground of green turtle. Our long-term dolphin monitoring data indicated that the usage of South Lamma waters by finless porpoises was relatively low. In view of the above, there is no need to accord priority in considering the South Lamma site for designation as marine park.

Furthermore, following up on the conditions in the Environmental Permit for the Hong Kong Zhuhai-Macao-Bridge — Hong Kong Boundary Crossing Facilities Project, the Highways Department is now carrying out the preparatory works for the designation of the marine park in the BIMP, including detailed study on the proposed boundary, devising management plan for the proposed BIMP and consultation with stakeholders.

We have implemented various measures to conserve the marine resources of Hong Kong. For example, to help curb further depletion of the marine resources in Hong Kong and enable the marine ecosystem to rehabilitate at a faster rate than would otherwise be possible, trawling activities in Hong Kong waters have been banned since the end of 2012. The registration of local fishing vessels is under way to control fishing effort and prohibit non-local fishing vessels from engaging in fishing activities in Hong Kong waters. The Agriculture, Fisheries and Conservation Department conducts several fisheries resources surveys per year. Preliminary findings from recent surveys indicate a slight increase in fisheries resources in some waters after the implementation of the abovementioned fisheries management measures. We still need to capture data over a longer period of time for a meaningful analysis of the effect of the trawl ban on fisheries resources. Looking ahead, we are making preparations for designating fisheries protection areas to protect important fish nursery and spawning grounds in Hong Kong waters. The Government will also continue to monitor the existing marine resources, carry out research and take other appropriate measures to conserve the marine resources of Hong Kong.

### **Measures to Alleviate Crowdedness of MTR Train Compartments**

10. **MR TONY TSE** (in Chinese): *President, it has been reported that the Beijing Municipal Administration of Quality and Technology Supervision promulgated the "Code for design of urban rail transit" in August this year, stipulating that five persons standing per sq m shall be the appropriate maximum under the design standard for railway train compartments with effect from 1 January 2014. The standard is the same as that for the Russian railways, while the standard for the Japanese railways is set at four persons per sq m. In this connection, will the Government inform this Council:*

- (a) *whether it knows if the MTR Corporation Limited (MTRCL) has set any specific indicator and target in respect of passenger density in a train compartment, including the requirement on the maximum number of standees per sq m inside a train compartment; if it has, of the details and the criteria by which the indicators and targets were set; if not, the reasons for that, and whether it will make reference to the practices of Beijing and abroad and formulate relevant standards;*

- (b) *as the information provided by the Transport and Housing Bureau has indicated that the maximum railway carrying capacity per hour per direction is currently 85 000 passenger trips for the Kwun Tong Line, the Tsuen Wan Line and the Island Line of MTR, with the average occupancy rate at almost 70% for both morning and afternoon peak hours, whether it knows the passenger density based on which MTRCL has calculated those data;*
- (c) *whether it knows if the MTRCL conducts regular reviews and assessments of the crowdedness of train compartments; if it does, of the outcome; if not, the reasons for that, and whether any assessment will be conducted; whether the MTRCL has taken any measure to alleviate the crowdedness of train compartments, as well as the implementation details and effectiveness of the various measures; and*
- (d) *whether it has assessed and by what criteria it has assessed if the current crowdedness of train compartments is at an acceptable level; if the assessment result is in the negative, of the solutions, including whether it will make the crowdedness of train compartments as one of the factors of consideration in the fare adjustment mechanism for MTR?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, my reply to various parts of Mr Tony TSE's question is as follows:

- (a) As the MTR is a mass transit system, its design has to cope with the requirement of a large passenger volume. Therefore, at the design stage, a benchmark on passenger density will be set out. This benchmark, however, is not a mandatory stipulation. In the actual operation of the MTR, passengers can choose where to sit and stand freely, and they can also freely pass through different train compartments. As there are numerous train doors, with the frequent boarding and alighting by passengers, their comfort level differs at different locations in the train compartments. During peak hours, passengers will inevitably feel more crowded. On the contrary, during non-peak hours, passengers may feel that the train compartments are more spacious. The MTRCL notices that, during

peak hours, passengers may have to wait for more than one train before boarding at particularly busy stations.

- (b) The calculation method of the average train loading of MTR during peak hours and its maximum carrying capacity is set out below:

Average train loading<sup>(1)</sup> = actual patronage ÷ maximum carrying capacity

Maximum carrying capacity = carrying capacity per train × number of train trips per hour

- (c) and (d)

The MTRCL is committed to providing a comfortable and reliable railway service for passengers. With a view to alleviating crowdedness on trains and reducing passengers' waiting time, the MTRCL added more than 1 200 train trips per week (that is, over 62 000 train trips per year) on busier railway lines vide the launching of the \$1 billion "Listening • Responding" programme last year. This year, the MTRCL further enhances train service appropriately on the East Rail Line, Island Line, West Rail Line, Kwun Tong Line and Tsuen Wan Line, and so on, to meet the needs of passengers.

Since the launching of the "Listening • Responding" programme, the MTRCL has received much positive feedback from passengers. A survey conducted at the end of last year shows that up to 80% of the 500 interviewees found trains and platforms less crowded, and up to 90% were satisfied with the waiting time for trains.

As mentioned above, passengers' comfort level on train varies according to the different locations in the train compartments and different time of the day during the journey. It cannot be generalized. It is therefore not viable and suitable to set a fixed benchmark as one of the factors to measure MTR train service quality. Hence, it should not be linked to the Fare Adjustment Mechanism.

(1) Based on the hourly patronage between the two busiest stations of the railway line.

The MTRCL understands that passengers' acceptance towards crowdedness in train compartments may vary. It will closely monitor and respond to passengers' needs. It will also take passengers' travelling patterns and patronage of different areas into consideration when making train service arrangements, in order to provide services that suit passengers' demand. In the long run, the Government will continue to study whether there is a need to develop new railway projects, in order to alleviate the current or potential bottleneck sections, with a view to enhancing the effectiveness of the whole railway network.

### **Nursing Manpower in Public Hospitals**

11. **PROF JOSEPH LEE** (in Chinese): *President, some nurses have relayed to me that the Hospital Authority (HA) has all along not drawn up any targeted nurse-to-patient ratios for public hospitals, resulting in its failure to set reasonable nursing manpower establishments for public hospitals. A survey report published in August this year by the Association of Hong Kong Nursing Staff (AHKNS) shows that the current average nurse-to-patient ratios in public hospitals for the three shifts of morning, afternoon and night are 1:11, 1:12 and 1:24 respectively. Such ratios are a far cry from the statutory ratios (1:4 to 1:6) in foreign countries. The AHKNS has also pointed out that the HA has all along told the public that it has gradually recruited more nursing staff, but in fact the shortage of nursing staff is serious. In this connection, will the Government inform this Council if it knows:*

- (a) *whether the HA has compiled statistics on the current nurse-to-patient ratios in various clinical departments of public hospitals in Hong Kong; if it has, of a breakdown of such figures by clinical department; if not, the reasons for that and whether the HA will consider compiling such statistics;*
- (b) *as the HA is considering the feasibility of introducing the "Ward Workload Index" (WWI), that is, calculating the required manpower ratios based on workload, whether the HA has calculated the appropriate nurse-to-patient ratios for various clinical departments according to WWI; if it has, of such ratios, the shortfall in nursing staff and the reasons for the shortage, broken down by clinical*

*department; if not, the reasons for that and whether it will consider making such calculation expeditiously; and*

- (c) *the number of new medical service programmes launched by the HA in the past three years, and set out the nursing staff required and whether there is any shortfall in nursing staff at present (if so, of the shortfall) in respect of each of these programmes?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, with an ageing population, advances in medical technology, and an increasing demand for healthcare services in the community, the manpower requirement for healthcare personnel grows commensurately. Over the past few years, the HA was all along concerned about the problem of manpower supply, including the shortage of front-line nursing manpower in public hospitals. The HA has recruited additional nurses in the past three years and the overall manpower has increased from 19 866 to 21 816 (on full-time equivalent basis), representing a net growth of 1 950 in number and an increase of 10%. In 2013, the HA will recruit 2 100 nurses to make up for staff turnover and relieve the work pressure of front-line nurses.

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

- (a) The HA provides different types and levels of services to patients according to the condition and needs of each patient at different specialties. Hence, the HA does not use nurse-to-patient ratio for assessing healthcare manpower requirement. The HA has no plan to compile statistics on the nurse-to-patient ratios in various clinical departments of public hospitals in Hong Kong for the time being.
- (b) In recent years, the HA is developing a ward workload assessment model for estimating nursing manpower requirement. In addition to the prevailing number of patients, the model also takes into account the dependency level of patients for nursing care.

There are four dependency categories under the model, deriving from patients' needs for direct nursing care. The higher the dependency, the more nursing time is required. The model also incorporates other workload factors, such as the working time for



providing patient education, counselling and care planning as well as non-bedside nursing work such as co-ordination and liaison. Other factors like patient turnover (including admission, discharge and transfer of patients) which have impact on nursing workload are also taken into consideration.

The ward workload assessment model is a dynamic tool used to calculate long-term healthcare manpower requirement according to the number of patients and the distribution of dependency categories. Since the HA is still developing the ward workload index, figures of individual clinical departments are not yet available.

The HA mainly considers additional requirement generated by projected service growth, and replacement requirement generated by staff turnover (including retirement) in projecting its nursing manpower requirement. The projection of service demand covers a comprehensive spectrum of services of the HA, ranging from in-patient, day-patient to out-patient, ambulatory and community services as well as clinical supporting specialties services. The service demand projection uses the age-specific and specialty-specific service utilization rates in a given year as the base, and takes into account anticipated changes resulting from various factors including population growth and ageing, and changes in healthcare services utilization pattern. The HA estimated that there was a shortfall of about 850 nurses in 2012.

- (c) The targeted number of additional nurses to be recruited each year by the HA is set having regard to the turnover rate and the manpower required for providing new services. On the operational front, the HA will flexibly deploy nursing staff to provide existing and new medical services. Therefore, the HA has not maintained statistics on the vacancy of nursing staff in respect of each medical service programme.

In general, the HA has strengthened the recruitment of nurses in recent years to relieve the nursing manpower pressure. The increase in the number of nurses is mainly for the provision of new medical services. The net increase in the number of nurses each year is listed in the following table:

<i>Year</i>	<i>Number of nurses (full-time equivalent)</i>	<i>Net increase</i>
2009-2010	19 866	-
2010-2011	20 102	236
2011-2012	20 901	799
2012-2013	21 816	915
Total number of additional nurses		1 950 <sup>(1)</sup>

Note:

- (1) Including 700 additional nurses recruited through additional government funding to the HA.

As mentioned in the reply to part (b), the HA estimated that there was a shortfall of about 850 nurses in 2012.

The HA has implemented various measures, including strengthening recruitment, enhancing promotion prospects and supporting career development of enrolled nurses, with a view to relieving the manpower shortage of nurses. The HA will continue to monitor the manpower situation and make appropriate arrangements in manpower planning in order to cope with the service demand.

### **School Transport Service**

12. **DR ELIZABETH QUAT** (in Chinese): *President, there are currently three types of vehicles providing student transport service (school bus service): (i) non-franchised public buses (public NFBs) with student service endorsement (SSE), (ii) private school buses operated by schools or school sponsoring bodies direct, and (iii) school private light buses (commonly called "nanny vans"). In the 2012-2013 school year, there were over 16 000 cross-boundary students, representing a sharp increase of 27% as compared to the figure of the previous school year. Moreover, some parents have pointed out that as it is increasingly common for school children to attend schools in districts other than that in which they reside owing to the increasing popularity of international schools and Direct Subsidy Scheme schools, the demand for school bus service has increased. Some school authorities have relayed that they find it difficult to arrange school bus service to cover all relevant districts due to the undersupply of school buses. In addition, some parents have complained about the exorbitant fares of school*

buses, while some school bus service operators (operators) have complained about the shortage of pick-up and drop-off areas that are safe in the vicinity of schools and public housing estates, and so on. Although nanny vans have applied to the Transport Department (TD) for permits for picking up and dropping off passengers in restricted zones, most of the restricted zones in the vicinity of schools are occupied by illegally parked private cars, forcing nanny vans to stop in the middle of the road to pick up and drop off school children. As a result, and coupled with the fact that the roads are narrow, there are conflicts between pedestrians and vehicles. These operators have also pointed out that because of the serious shortage of parking spaces in various districts, they can only park their vehicles in outdoor car parks, resulting in not only the accelerated wear and tear of their vehicles due to exposure in the sun and rain, but also insurance companies' refusal to provide insurance coverage for their vehicles on the ground that such vehicles are not parked in appropriate parking spaces. Moreover, it has been reported that in order to cut costs and having regard to the undersupply of nanny vans, some operators set up "interchange stations" at the intersections of school bus routes to arrange for school children going to different destinations to interchange. However, due to the shortage of escorts on school buses, some young school children need to board and alight school buses or even cross the roads with heavy traffic on their own, and are thus subjected to danger. In this connection, will the Government inform this Council:

- (a) of the respective numbers of vehicles which can provide school bus service in various District Council districts (DC districts) at present;
- (b) whether it has compiled statistics to assess if the respective numbers of buses of the aforesaid types (i) and (ii) in various DC districts can meet the demand; if it has not compiled such statistics, of the reasons for that; if it has, the details, and if the assessment result is in the affirmative, whether the authorities have examined why quite a number of parents still look for nanny van service;
- (c) of the respective regulatory regimes formulated by the authorities for the aforesaid three types of vehicles which provide student transport service; of the measures taken by the authorities to step up regulatory efforts so as to enhance the standard of the conduct of the trade and safeguard the safety of school children;

- (d) *whether it will provide additional pick-up and drop-off areas for school buses in the vicinity of schools and public housing estates, and so on, (for example, by allowing school buses to pick up and drop off school children in restricted zones during designated hours when they go to/leave school, instead of requiring each school bus to make individual application annually), and step up law-enforcement actions against illegal parking of private cars in the vicinity of schools, so as to avoid the pick-up and drop-off areas for school buses being illegally occupied by private cars, hence compromising the safety of school children; if it will, of the details; if not, the reasons for that;*
- (e) *whether it will enhance its support for operators and the continuous training for practitioners in the trade to increase their awareness of safety in taking care of school children; if it will, of the details; if not, the reasons for that;*
- (f) *of the respective numbers of parking spaces for school buses in various DC districts at present; whether it will increase the number of parking spaces for school buses in various DC districts; if it will, of the details; if not, the reasons for that; and*
- (g) *as the taking out of insurance by some operators for their vehicles has been refused by insurance companies, whether the authorities have measures in place to help the trade solve this problem; if they have, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, school buses play an important role in carrying students to and from schools. The TD has been closely monitoring the supply situation of school buses and making arrangements to cater for free market operation. Regarding the school bus operation, TD provides guidelines to the trade and imposes regulation in the light of the actual operation of school buses. The TD also maintains communication with the trade and takes appropriate measures to meet the normal operational need of school buses and ensure the safety of school children.

My replies to the various parts of Dr Elizabeth QUAT's question are as follows:

(a) and (b)

There are three types of student service vehicles (SSVs): (i) public NFBs with SSE; (ii) private school buses operated directly by schools or school sponsoring bodies; and (iii) school private light buses (SPLBs) (commonly known as "nanny vans"). At present, about 5 200 SSVs can provide student transport service including 3 468 public NFBs with SSE, 68 school private buses and 1 722 SPLBs. While the number of public NFBs with SSE reduced slightly by 3% in the past two years, the number of SPLBs increased by 37% during the same period. Meanwhile, the number of students in 2012 dropped by about 5% compared with that in 2011<sup>(1)</sup>. As a whole, the supply of SSVs has remained largely stable.

Operators of public NFBs and nanny vans may, in response to market demand and their operating situation, provide student transport service in different districts and for different schools. School private buses are basically operated directly by schools. The TD does not have the relevant figures by districts.

(c) The operation of SSVs is regulated through the licensing conditions of the Passenger Service Licences (PSLs) and the vehicle licences, both issued by the TD, to the vehicles concerned. Such conditions include the requirement of SSVs serving kindergarten or primary school students to provide escorts on board for student care. According to the explanatory notes to the PSL conditions, an escort should be an adult who has attained the age of 21 years and has good physique; should take good care of students and maintain discipline during the journey; and should ensure that students reach schools safely and are picked up by their parents/guardians on their homeward journey.

The TD has been paying close attention to the operation of SSVs for ensuring the safety of students on their way to and from schools. Apart from conducting follow-up investigations upon complaints, the TD will carry out spot checks at schools in various districts from

(1) The figure reflects the situation in mid-September of both 2011 and 2012. Students enrolled in special schools and special classes of ordinary schools are excluded as they may use private bus service for the disabled.

time to time to see if there is non-compliance of PSL conditions by SSVs. If an investigation identifies any suspected violation of the law, PSL conditions or licensing conditions of vehicle licence, the Government will take follow-up actions in accordance with the law. For example, if an SSV is found to have provided unauthorized services, the TD may conduct an inquiry against the licence holder concerned under the Road Traffic Ordinance (Cap. 374 of the Laws of Hong Kong). Once the inquiry has established that the licensee has violated the PSL conditions, the Commissioner of Transport may suspend, cancel or vary the PSL concerned.

- (d) The TD has been closely monitoring the traffic situation in the vicinity of schools and maintaining communication with schools and operators of student transport service from time to time. The TD will take into account the SSV operation of individual schools or districts as well as the views collected to implement appropriate traffic management measures when necessary and liaise with the police to step up enforcement against illegal parking. Furthermore, relevant departments including the TD and the Housing Department will consider setting up SSV pick-up and drop-off areas in the vicinity of schools, public housing estates and other locations, having regard to factors including the actual traffic condition of individual districts, geographical environment, need for students to alight and board school buses and safety consideration.
- (e) The TD has drawn up safety guidelines for stakeholders of student transport service including operators, schools, drivers and escorts to remind them of the requirements to be observed in service delivery. The TD has also set out safety guidelines for parents/guardians and students to advise them of the safety matters to be observed when using SSVs. Before the start of every school year, the TD writes to all operators and schools to remind them of the issues that they need to pay attention to when providing and using student transport service as well as the safety guidelines mentioned above. All relevant information has been uploaded onto the website of the Education Bureau for wider publicity.

Separately, the TD maintains close contact with the trade and conveys safety messages through regular meetings and frequent

liaison. As regards enhancing training for practitioners, the TD will consult the trade and if necessary, assist the trade to approach the relevant organizations for arranging training programmes.

- (f) As mentioned above, there are three types of SSVs, namely SPLBs, public NFBs and private school buses. Currently, there are no parking spaces designated for the exclusive use by SSVs. SSVs may park at any suitable parking spaces according to their types and sizes. For example, SPLBs may park at private car parking spaces as SPLBs and private cars are of similar length and width. Larger SPLBs may park at parking spaces for minibuses. Public NFBs and private school buses may use the parking spaces for non-franchised buses.

The Government will continue to monitor the parking need of various types of vehicles, including SSVs, in Hong Kong and implement suitable measures to cater for the demand when necessary.

- (g) The nanny van trade has earlier relayed to the TD that the insurance industry has set an overly high premium for SSVs and they have encountered difficulty in taking out insurance from insurance agencies. The TD has relayed the views and suggestions of the trade to the Office of the Commissioner for Insurance. After the concerns of the trade have been relayed, some insurance agencies have differentiated nanny vans from NFBs which do not provide student services when setting the premium, resulting in a slightly lower premium for nanny vans. The Hong Kong Federation of Insurers has also distributed a list of insurance agencies providing insurance policies for NFBs and nanny vans to facilitate members of the trade to search for suitable insurers. The TD will continue to help the trade liaise and communicate with the relevant organizations and provide the trade with assistance as far as possible.

## **Government Reserves and Expenditure**

13. **DR CHIANG LAI-WAN** (in Chinese): *President, the official foreign currency reserve assets stand at about US\$300 billion at present, including an accumulated surplus of over HK\$600 billion, while the fiscal reserves of the*

*Government stand at HK\$670 billion. There is hence a view that the Government has a very robust financial position. In this connection, will the Government inform this Council:*

- (a) as the Financial Secretary has stated in the 2012-2013 Budget that Hong Kong needs to maintain adequate fiscal reserves to take on the challenges posed by an ageing society as well as to cope with economic contingencies, whether the Government currently has put in place clear criteria for determining an appropriate level of fiscal reserves; if it has, of the details; if not, the reasons for that;*
- (b) as the Government has indicated that it would set up a working group to be led by the Treasury Branch, and scholars and experts would be invited to join the working group to study ways to make more comprehensive planning for public finances in order to cope with the ageing population and the Government's other long-term commitments, of the latest work progress of the working group, the scope of the study, and the expected time for publishing the findings of the study;*
- (c) as there is a view that the existing financial management philosophy of the Government is too conservative, whether the Government will consider taking appropriate measures, such as setting up or injecting monies into funds for designated purposes in order to release part of the reserves, with a view to allocating more resources for the enhancement of the education, healthcare, social security net, retirement protection system and economic development of Hong Kong, thereby promoting social mobility and alleviating the problem of disparity between the rich and the poor in Hong Kong; and*
- (d) since it is learnt that while each year the authorities draw up the recurrent expenditure estimates for the next year on the basis of economic growth forecast, the growth of government revenue has been consistently higher than the local economic growth in real terms in recent years, whether the authorities will consider making appropriate adjustments to that estimation approach; if so, of the details; if not, the reasons for that?*



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

- (a) Fiscal reserves is not a back-up asset, but represents the total amount of resources that the Government can use on a day-to-day basis. The level of reserves reflects the Government's entire cash balance.

Fiscal reserves serves to meet our day-to-day operational expenses and public works expenditures. It also comprises funds for designated uses that cannot be freely transferred, such as the Land Fund, the Lotteries Fund and the Disaster Relief Fund. We must ensure that the fiscal reserves is sufficient to perform its major functions, which include strengthening the stability of Hong Kong dollars, serving as a buffer during economic downturns, coping with unfunded liabilities and committed expenditures, generating investment income, and meeting future needs, such as the challenges of an ageing population. In view of the multiple functions of fiscal reserves and uncertainties in the external economy, it serves little purpose to determine an "appropriate level" for fiscal reserves.

Fiscal reserves is not inexhaustible. The Government has the responsibility to strictly control expenditure and ensure fiscal sustainability.

In fact, the Government has been adhering to the fiscal discipline of keeping expenditure within the limits of revenues and committing resources only where justified. Fiscal reserves is not the most important factor in determining the level of expenditure.

- (b) The Financial Secretary announced in the 2013-2014 Budget Speech that a working group to be led by the Treasury Branch of the Financial Services and the Treasury Bureau would be set up to explore ways to make more comprehensive planning for Hong Kong's public finances to, amongst others, cope with the ageing population and the Government's other long-term commitments.

The Working Group on Long-Term Fiscal Planning was set up in June 2013. It aims to assess, under existing policies, the long-term public expenditure needs and changes in government revenue, and to

propose feasible fiscal measures with reference to overseas experience to enable the Government to make more comprehensive fiscal planning in the face of the challenges on public finances posed by the ageing population. The Working Group is carrying out its work and aims to report to the Financial Secretary by early 2014.

- (c) Government expenditure on public services is mainly met from the General Revenue Account on an annual basis. However, where justified and necessary, we may seek funding approval from the Finance Committee of the Legislative Council to set up a dedicated fund for a specific service area. This is to provide a steady funding source for the particular service despite the fluctuations in the economy or government revenue. Examples include the Environment and Conservation Fund, the Community Care Fund and the Language Fund.

While adhering to the principles of fiscal prudence and committing resources only where justified, the Government's spending has been far from conservative. Recurrent expenditure has increased from \$150 billion in 1997-1998 to more than \$290 billion in 2013-2014, an increase of nearly one-fold. The increase in recurrent expenditure reflects the Government's long-term commitment to improving people's livelihood. Recurrent expenditure in areas such as education, health services and social welfare accounts for about 60%. When compared to 1997-1998, the expenditure on education increased by about 70%, and the expenditure on health services increased by about 90%, while the expenditure on social welfare increased by about two-fold.

- (d) The Basic Law stipulates that the Government shall follow the principle of keeping the expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits and keep the budget commensurate with the growth rate of its Gross Domestic Product (GDP).

Since 1997-1998, we have had budget deficits in five years and surpluses in 11 years. In 2012-2013, the cumulative nominal GDP growth was about 50%, with comparable cumulative increase in income. The cumulative increase in expenditure, however, nearly

doubled. In the 2013-2014 Budget, the government expenditure was estimated to reach \$440 billion, an increase of about \$250 billion as compared with 1997-1998, which is more than a one-fold increase. Yet, the nominal GDP growth during the same period is only slightly more than 50%.

Hong Kong is a small and open economy. Our tax base is narrow and some major revenues, in particular land premium and profits tax, are highly vulnerable to economic fluctuations. They are so volatile that they are somehow beyond the Government's control or accurate estimation. All along, government revenue and expenditure have been hovering around 20% of GDP. Over the past 15 years, there has been a significant increase in our recurrent expenditure. We also have to make more comprehensive planning to cope with the ageing population and other long-term financial commitments. Therefore, in preparing the annual budget and Medium Range Forecast, the Government should not consistently deviate from the rate of economic growth and related factors.

### **Thefts of Luggage in Airport**

14. **MISS ALICE MAK** (in Chinese): *President, it has been reported that thefts of luggage have occurred one after another at the baggage reclaim areas of the Hong Kong International Airport recently. Furthermore, a member of the public, after witnessing a suspected theft case at the baggage reclaim areas, requested the staff of the Airport Authority (AA) to view the video images recorded by closed-circuit television (CCTV) so as to understand the case, but such a request was refused. The incident has cast doubts over the security level of the airport. In this connection, will the Government inform this Council whether it knows:*

- (a) *the total number of thefts occurring at the baggage reclaim areas and the number of such cases detected by the relevant authorities in the past three years;*
- (b) *the number of complaints received by the AA in the past three years about neglect of duty on the part of airport security guards;*

- (c) *the number of CCTV cameras installed at the baggage reclaim areas and, among them, the number of those equipped with recording functions; and*
- (d) *if the AA will, upon request by members of the public who have witnessed crimes, assign its staff to view the video images recorded by the CCTV cameras in the airport so as to look into what happened when such crimes were committed; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, our reply to the various parts of the question raised by Miss Alice MAK is as follows:

- (a) According to the information provided by the police, the number of cases of luggage theft in the airport's baggage reclaim areas as received by the police in Airport District and the number of such cases detected in the past three years are set out in Annex 1.
- (b) The number of complaints about neglect of duty by airport security guards as received by the AA in the past three years is set out in Annex 2.
- (c) Fifteen CCTV cameras have been installed in the baggage reclaim areas at the airport to monitor daily operation. All of them are equipped with recording functions.
- (d) The AA will refer to the police or other law-enforcement agencies (LEAs), for example, the Customs and Excise Department, as appropriate any crimes that have been witnessed and reported by members of the public for investigation and follow-up. The AA will also provide the CCTV video footage to assist the LEAs' investigation.

## Annex 1

Number of reports on luggage theft in the airport baggage reclaim areas received by the police in Airport District

<i>Year</i>	<i>Number of reports received by the police</i>	<i>Number of cases detected by the police</i>
2011	12	4
2012	5	1
2013 (as at 31 October 2013)	2	2

## Annex 2

Number of complaints received by the AA about neglect of duty by airport security guards

<i>Year</i>	<i>Number of complaints received by the AA</i>
2011	0
2012	0
2013 (as at 31 October 2013)	3 <sup>(1)</sup>

Note:

- (1) All three cases are anonymous complaints about airport security guards using mobile phones while on duty. The AA has referred these cases to the Aviation Security Company Limited for follow-up actions.

### **Training for Employees in Retail Industry**

15. **MR KWOK WAI-KEUNG** (in Chinese): *President, it is learnt that both the Government and members of the business sector have recently claimed that there is a shortage of manpower in the retail industry. Moreover, the Retail Trade Training Board (the Board) of the Vocational Training Council (VTC) conducts a manpower survey every two years to evaluate the manpower situation of the industry in order to understand the manpower demand and training needs. In this connection, will the Government inform this Council whether it knows:*

- (a) if the Board has conducted, in its most recent manpower survey, an analysis of the respective (i) numbers of people employed, (ii) numbers of vacancies and (iii) manpower demand (that is, (i) plus (ii)), in respect of managers, supervisors, salespersons, part-time salespersons, clerks or technical assistants as well as staff members at other ranks, in the retail industry each year from 2013 to 2015; if it has, of the details (set out in Table 1);

Table 1

Year	Managers			Supervisors			Salespersons			Part-time Salespersons			Clerks or Technical Assistants			Others (set out in details)		
	(i)	(ii)	(iii)	(i)	(ii)	(iii)	(i)	(ii)	(iii)	(i)	(ii)	(iii)	(i)	(ii)	(iii)	(i)	(ii)	(iii)
2013																		
2014																		
2015																		

- (b) if the Board has evaluated the current training needs of the retail industry and the three training areas with the highest growth in the demand for training (such as management training, sales techniques, customer service, product knowledge, languages, and so on); if it has, of the details;
- (c) if the Board has compiled statistics on the number of retailers which provided in-house training for their employees last year and their percentage in the total number of retailers;
- (d) if the Board has conducted any survey on the general scopes, the total number of employees trained and their general ranks, the total number of training places as well as average number of training hours in respect of the in-house training currently provided by retailers; if it has, of the details;
- (e) the number of training courses organized by the VTC for the retail industry and the number of places offered each year from 2010 to 2012, as well as the course names, training scopes, modes of study (full-time or part-time), entry requirements, number of teaching hours, tuition fees, subsidies, total number of graduates and graduation rates (set out by year in a table of the same format as Table 2); and

Table 2 Year: \_\_\_\_\_

<i>Training providers (if applicable)</i>	
<i>Course names</i>	
<i>Total number of course places</i>	
<i>Training scope</i>	
<i>Modes of study (full-time or part-time)</i>	
<i>Entry requirement</i>	
<i>Number of teaching hours</i>	
<i>Tuition fee</i>	
<i>Subsidy</i>	
<i>Total number of graduates</i>	
<i>Graduation rate</i>	

- (f) *the total number of training courses for the retail industry organized by training providers commissioned by the Employees Retraining Board (ERB) under the Qualifications Framework and the total number of training places of such courses, in each year from 2010 to 2012, as well as the names of the course providers concerned and course names, training scopes, modes of study (full-time or part-time), entry requirements, number of teaching hours, tuition fees, subsidies, total number of graduates and graduation rates of such courses (set out by year in a table of the same format as Table 2)?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to the question raised by Mr KWOK Wai-keung is as follows:

- (a) The VTC conducted the latest manpower survey for the retail industry (the survey) in 2012, which aimed to reflect the manpower demand in the industry in the short term. The Board endorsed the survey findings after discussion and consideration. In the survey, interviews were conducted with retail establishments in order to forecast the manpower demand by various ranks for 2013. The relevant figures are provided in Table 1 below.

Table 1

	<i>Managers</i>	<i>Supervisors</i>	<i>Sales- persons</i>	<i>Part-time Sales- persons</i>	<i>Clerical/ Operative Assistants<sup>(1)</sup></i>	<i>Others<sup>(2)</sup></i>
Forecast Manpower Demand for 2013	14 628	27 524	138 193	35 954	7 543	44 118

Notes:

- (1) Including stock/purchasing clerks, stock assistants, order assistants (online services) and visual merchandising assistants.
- (2) Including owners/sole proprietors/working partners and employees engaged in non-technical retail jobs (such as accounting, finance, information technology, administrative and supportive functions, and so on).

The survey did not project the manpower supply of the retail industry and it did not collect any information on the numbers of employees and vacancies in 2013. As regards the manpower demand in the retail industry for 2014 and 2015, the survey report adopted a projection approach and forecast that the overall manpower demand in the industry would be 280 928 and 289 346 respectively. The survey report did not break down the projected figures by rank.

- (b) The survey report showed that in 2012 employers provided or sponsored most training places in the areas of product knowledge, customer service, and store operations. The number of training places involved were 48 602, 44 667 and 43 380 respectively. As compared with 2010 (that is, the previous survey), the three training areas with the highest growth of training places were store operations, managerial/supervisory skills/business management and others (including occupational safety and health, first aids, customer psychology, and so on). The percentage increases were 413%, 296% and 182% respectively.
- (c) Employers of retail establishments with four or more employees were interviewed in the survey about their provision or sponsorship of training for staff in 2012. The survey report projected that the



total number of retail establishments with four or more employees in Hong Kong was 7 110<sup>(3)</sup> and 1 213 of them provided or sponsored training for staff, representing 17% of such establishments.

- (d) The numbers of training places, training areas and ranks of employees trained as set out in the survey report are listed in Table 2 below.

Table 2

<i>Training areas</i>	<i>Training places</i>	
	<i>Full-time Managerial and Supervisory Staff</i>	<i>Full-time Salespersons<sup>(4)</sup>, Clerical or Operative Staff</i>
Managerial/Supervisory Skills/ Business Management	13 315	4 013
Trade Specific Training		
Customer Service	8 480	36 187
Selling Skills	4 314	28 242
Product Knowledge	8 061	40 541
Complaints Handling	3 419	13 595
Interpersonal Skills/Team Work	5 836	10 007
Store Operations	11 595	31 785
Logistics/Inventory Management/ Supply Chain Management	2 222	2 314
Information Technology and Applications	1 082	4 574
Languages		
Putonghua	800	3 963
English	894	4 503
Personal Development	3 117	3 560
Others	733	4 111
Total	63 868	187 395

Note:

- (4) The survey did not collect information about the provision or sponsorship of training for part-time salespersons.

(3) According to the information of the Census and Statistics Department and the 2012 Manpower Survey Report of the Retail Trade, there were a total of 46 034 registered retail companies. Excluding the inactive companies in the Central Register of Establishments, the number of registered retail companies was 37 955.

The survey did not cover the number of employees trained and the average number of training hours.

- (e) The Business Services Centre under the VTC provides training courses to employees in the retail industry without setting an upper limit for the training places of retail courses. The relevant information is set out in Table 3 below.

Table 3

Training Provider	Business Services Centre		
Academic Year	2009-2010	2010-2011	2011-2012
Course Type	1. Practical training courses (see Annex 1 for the course list) 2. Courses tailor-made for retail establishments (the titles and design of the courses vary according to the requirements of individual establishments)		
Total Number of Trainees	4 028	4 003	3 968
Training Scope	The contents of the practical and tailor-made courses include retail shop management, supervision, management, customer services and sales, complaint handling, consumer behaviour, customer relationship, emotional quotient (EQ) and adversity quotient (AQ), creativity, communication and presentation skills, inventory management, management of Generation Y, English and Putonghua, and so on.		
Modes of Study (Full-time or Part-time)	Part-time		
Entry Requirements	Employees in the retail industry		
Number of Training Hours	1. Practical training courses: details are set out at Annex 1. 2. Tailor-made courses: the number of training hours depends on the design of individual courses.		

Academic Year	2009-2010	2010-2011	2011-2012
Tuition Fee	1. Practical training courses: \$25 per hour on average 2. Tailor-made courses: the fees depend on the design of individual courses.		
Subsidy	No		
Total Number of Graduates	3 874	3 927	3 801
Graduation Rate	96.2%	98.1%	95.8%

In addition to the abovementioned courses, the VTC also provides retail training for students through incorporating retail-related modules in higher diploma/diploma programmes, foundation diploma/diploma in vocational education programmes and Project Yi Jin programmes.

- (f) The relevant information on the training courses for the retail industry provided by the ERB under the Qualifications Framework in the past three financial years (2010-2011 to 2012-2013) is set out in Table 4 below.

Table 4

Training Providers	The list of training bodies which have provided training courses in the past three financial years is set out at Annex 2.		
Financial Year	2010-2011	2011-2012	2012-2013
Course Type	1. Full-time placement-tied course 2. Half-day or evening Skills Upgrading Scheme Plus (SUS Plus) course		
Number of Training Places Utilized	2 116	2 508	1 712
Training Scope	Training scopes of the relevant courses are set out at Annex 3.		
Modes of Study (Full-time or Part-time)	1. Full-time placement-tied course: full-time 2. Half-day or evening SUS Plus Course: part-time		
Entry Requirements	1. Full-time placement-tied course: cater for the unemployed and non-engaged. The requirements on academic qualifications range from Primary Six to Form Five level.		

Financial Year	2010-2011	2011-2012	2012-2013
	2. Half-day or evening SUS Plus Course: mainly cater for employees or people planning for a career change; in general, there is no requirement on academic qualifications prescribed for these courses		
Number of Training Hours	1. Full-time placement-tied course: range from 120 to 160 hours 2. Half-day or evening SUS Plus Course: range from 14 to 24 hours per course		
Tuition Fee	1. Full-time placement-tied course: free-of-charge 2. Half-day or evening SUS Plus Course: range from \$250 to \$1,250, depending on the course nature and level of subsidies <sup>(5)</sup>		
Subsidy	1. Full-time placement-tied course: trainees attending courses with duration of seven days or more may apply for retraining allowance <sup>(6)</sup> 2. Half-day or evening SUS Plus Course: no subsidy offered		
Number of Completions <sup>(7)</sup>	1 780	1 929	1 487
Attendance Rate <sup>(8)</sup>	91%	93%	91%

## Notes:

- (5) Trainees with monthly income of \$9,000 or below may apply for course fee waiver. For those with monthly income between \$9,001 and \$19,500, they may apply for paying only about 30% of the training cost.
- (6) The retraining allowance ranges from \$30 to \$153.8 per day depending on the types of courses and trainees.
- (7) A trainee who has enrolled in a training course is regarded as having completed the course if he has achieved an attendance rate of 80%. A trainee may pursue more than one ERB course within a financial year and may be involved in more than one completion.
- (8) "Attendance rate" is the percentage of the total number of trainees who completed the course over the total number of admitted trainees of the course. The benchmark is set at 80%.

## Annex 1

The practical training courses for the retail industry provided by  
the Business Services Centre under the VTC

<i>Course Title</i>	<i>Duration (hour)</i>
1. Turning Customer Complaints into Customer Satisfaction	7
2. The Power of Presentation	7
3. Coaching for Performance	7
4. Motivating Staff for Better Results	7
5. EQ — Tips for a Happy Workplace	7
6. Excel Application for Retail	12
7. AQ — Turning Pressure in Power	7
8. Employment Ordinance — What Supervisors Should Know	7
9. Know Your Customers Well — Understanding Consumer Behaviour	7
10. Effective Time Management for Results	7
11. Making of a Successful Leader	7
12. Win-Win Communication & Building an Outstanding Team	7
13. Customer Services from the Heart	7
14. The Art of Selling	7
15. Managing Difficult Customers	7
16. Cangjie Input Method	12
17. Customer Service — Winning Customer Loyalty	7
18. "The Enneagram Series" — Enhance Leadership by Utilizing Enneagram	7
19. Innovative Approach to Problem Solving	7
20. Managers meet with Generation Y	7
21. How to Build and Maintain a Positive Attitude Towards Change	7
22. "The Enneagram Series" — Enhance Communication and Mutual Understanding	7
23. Customer Services Training	7
24. Basic of Inventory Control — What Supervisors Should Know	7
25. Customer Relationship Management	7
26. Certificate Programme for Retail Supervisors	28

<i>Course Title</i>	<i>Duration (hour)</i>
27. Coaching for Performance (Advanced)	7
28. Win-Win Communication & Building an Outstanding Team (Advanced)	7
29. The Art of Selling (Advanced)	7
30. Introduction to Retail	21
31. Shop Management and Customer Service	14
32. Staff Management	14
33. Maximizing Sales & Visual Merchandising in Retailing	14
34. Basic Sales Analysis	14

## Annex 2

Training bodies that have offered the ERB courses for the retail industry  
which have been uploaded onto the Qualifications Register  
(2010-2011 to 2012-2013)

<i>Training Bodies</i>	
1.	Caritas-Hong Kong
2.	Clothing Industry Training Authority
3.	Hong Kong Employment Development Service Limited
4.	HKCT Group Limited
5.	The Hong Kong Confederation of Trade Unions
6.	The Evangelical Lutheran Church of Hongkong
7.	The Federation of Hong Kong and Kowloon Labour Unions
8.	The Hong Kong Federation of Trade Unions
9.	S. K. H. Holy Carpenter Church Community Centre
10.	Christian Action
11.	Heung To College of Professional Studies
12.	The Industrial Evangelistic Fellowship Limited
13.	KCRA Community Education Enhancement Center Limited
14.	Methodist Centre
15.	New Territories Association Retraining Centre Limited
16.	Neighbourhood & Worker's Service Centre
17.	Occupational Safety and Health Council
18.	St. James' Settlement
19.	Hong Kong Sheng Kung Hui Lady MacLehose Centre
20.	VTC

<i>Training Bodies</i>	
21.	The Young Men's Christian Association of Hong Kong
22.	Yan Oi Tong Limited
23.	Hong Kong Young Women's Christian Association

Annex 3

The ERB courses for the retail industry  
which have been uploaded onto the Qualifications Register  
(2010-2011 to 2012-2013)

<i>Full-time placement-tied courses</i>	
1.	Certificate in Pet Groomer and Shop Assistant Training (Training scope: to equip trainees with the knowledge on the daily operation of retail establishments, customer services and sales techniques; to help them grasp the basic knowledge and skills of bathing, modelling as well as hair and nail trimming for pets.)
2.	Certificate in Organic Products Promotion Training (Training scope: to enable trainees to learn and understand the concept of organic farming and the knowledge of organic products; to help them grasp the practical skills on daily operation of retail establishments, customer services and sales techniques.)
3.	Certificate in Retail Salesperson Training (Training scope: to enable trainees to grasp basic customer service and sales techniques; to help them understand stock management, the operation of retail establishments and payment methods and procedures.)
4.	Certificate in Florist and Floriculture Assistant Training <sup>(9)</sup> (Training scope: to enable trainees to grasp the basic skills of the daily operation of floral shops and floriculture; to equip them with the knowledge of stock management, operation of retail establishments and payment procedures.)
<i>Half-day or evening "Skills Upgrading Scheme Plus" courses</i>	
5.	Module Certificate in Introduction to Retailing (Training scope: to enable trainees to understand the basic requirements of the retail industry and the importance of good retail services; to help them grasp the skills of receiving customers.)

*Half-day or evening "Skills Upgrading Scheme Plus" courses*

- |     |  |
|-----|--|
| 6.  | Module Certificate in Advanced Excellent Customer Service and Selling Technique<br>(Training scope: to enable trainees to have in-depth understanding of professional sales techniques, effective communication skills and handling complaints with EQ to enhance the overall quality of customer service.)  |
| 7.  | Module Certificate in Shop Management and Customer Service<br>(Training scope: to enable trainees to understand the standard of retail establishment operation, the management of shop operation and the use of service management in providing quality customer services; to enhance the customer service skills of managerial staff; to educate managerial staff to train, supervise, and motivate staff in enhancing customer service skills in this aspect.) |
| 8.  | Module Certificate in Staff Management in Retailing<br>(Training scope: to equip trainees with the skills of effective communication, team building and leadership; to equip them in training, motivating and counselling skills to achieve effective management.)   |
| 9.  | Module Certificate in Merchandise Sale and Visual Merchandising<br>(Training scope: to enhance trainees' skills in product promotion, sales management and supervision; to train the managerial staff in educating their staff to improve skills in this aspect.)  |
| 10. | Module Certificate in Basic Sales Analysis<br>(Training scope: to enable trainees to grasp the basic knowledge of profit and loss accounts as well as sales trend analysis; to adopt more effective sales strategies, manpower management that meets practical needs as well as expenses control in order to attain higher economic efficiency in shop management.)  |
| 11. | Module Certificate in Personal Effective Management<br>(Training scope: to equip trainees with skills of effective time management, providing effective responses as well as attending interviews.)  |
| 12. | Module Certificate in Basic Putonghua for Retailing (Generic)<br>(Training scope: to equip trainees with the basic knowledge of Putonghua pronunciation, common vocabularies and situational expressions used in the retail industry so as to strengthen their daily work place communication skills and thereby enhancing their competitiveness.)   |



*Half-day or evening "Skills Upgrading Scheme Plus" courses*

- |  |
|--|
| <p>13. Module Certificate in Advanced Putonghua for Retailing (Generic)<br/>(Training scope: to enable trainees to grasp accurate Putonghua pronunciation in daily life and responses as well as common situational expressions; to equip them with more vocabularies and expressions used in the retail industry; to strengthen their Putonghua presentation and oral skills in the workplace through dialogues, practices and role-plays.)</p> |
| <p>14. Module Certificate in Basic English for Retailing (Generic)<br/>(Training scope: to equip trainees with the basic knowledge of English pronunciation, common vocabularies and common situational expressions used in the retail industry so as to strengthen their daily and workplace communication skills and thereby enhancing their competitiveness.)</p>   |
| <p>15. Module Certificate in Advanced English for Retailing (Generic)<br/>(Training scope: to enable trainees to grasp the English skills for daily workplace communication; to equip them with more vocabularies and expressions used in the retail industry; to strengthen their English presentation and oral skills in the workplace through dialogues, practices and role-plays.)</p>   |
| <p>16. Module Certificate in Basic English for Retailing (Convenience Store, Supermarket, Fast Food Shop)<br/>(Training scope: to equip trainees with the basic knowledge of English pronunciation, vocabularies and common situational expressions used in the retail industry so as to strengthen their daily workplace communication skills and thereby enhancing their competitiveness.)</p>   |
| <p>17. Module Certificate in Basic English for Retailing (Jewelry, Clock &amp; Watch, Cosmetics)<br/>(Training scope: to equip trainees with the basic knowledge of English pronunciation, vocabularies and common situational expressions used in the retail industry so as to strengthen their daily workplace communication skills and thereby enhancing their competitiveness.)</p>  |
| <p>18. Module Certificate in Basic English for Retailing (Electrical Appliances, AV Equipment, Electronic Products, Furniture &amp; Houseware)<br/>(Training scope: to equip trainees with the basic knowledge of English pronunciation, vocabularies and common situational expressions used in the retail industry so as to strengthen their daily workplace communication skills and thereby enhancing their competitiveness.)</p>            |

<i>Half-day or evening "Skills Upgrading Scheme Plus" courses</i>	
19.	Module Certificate in Basic English for Retailing (Footwear, Apparel, Children Products ) (Training scope: to equip trainees with the basic knowledge of English pronunciation, vocabularies and common situational expressions used in the retail industry so as to strengthen their daily workplace communication skills and thereby enhancing their competitiveness.)
20.	Module Certificate in Basic English for Market Vending Industry (Training scope: to assist trainees to grasp the basic knowledge of English pronunciation, common situational expressions used in the market vending industry so as to strengthen their daily workplace communication skills and thereby enhancing their competitiveness.)
21.	Module Certificate in Basic Putonghua for Market Vending Industry <sup>(10)</sup> (Training scope: to assist trainees to grasp the basic knowledge of Putonghua pronunciation, common situational expressions used in the market vending industry so as to strengthen their daily workplace communication skills and thereby enhancing their competitiveness.)
22.	Module Certificate in Occupational Safety & Health for Market Vending Industry <sup>(11)</sup> (Training scope: to enable trainees to have a better understanding of personal hygiene and occupational safety so as to minimize the chance of food contamination, work accidents and occupational diseases.)

Notes:

(9) This course has been grouped under another industry category since 2011-2012.

(10) This course was not offered in 2012-2013.

(11) This course is uploaded onto the Qualifications Register until March 2012.

### **Phasing Out of Old Diesel Commercial Vehicles**

16. **DR LAM TAI-FAI** (in Chinese): *President, the Chief Executive has stated in the 2013 Policy Address that diesel commercial vehicles (DCVs) are a major source of roadside air pollution in Hong Kong, and proposed to set aside subsidies to owners of over 80 000 heavily polluting DCVs meeting pre-Euro IV emission standards so as to phase out these vehicles in accordance with their*

*pollution level, thereby meeting the 2015 and 2020 emission reduction targets. The Environmental Protection Department (EPD) has earlier proposed that the amounts of ex-gratia payments for scrapping and replacing vehicles be standardized and raised, and that the retirement deadlines for Euro I to III DCVs be extended by one year. Under the revised proposal, the Government's financial commitments will be increased to \$11.7 billion. In this connection, will the Government inform this Council:*

- (a) of the respective numbers of light, medium and heavy pre-Euro and Euro I to III DCVs in Hong Kong at present; whether it has a breakdown of the numbers of DCVs by frequency of use (such as occasional or frequent use); if so, of the respective numbers; if not, the reasons for that;*
- (b) given that quite a number of vehicle owners from grass-roots families have indicated that they are unable to pay for the huge costs involved in replacing their vehicles, whether the Government has assessed the number of vehicle owners or companies concerned that will close down their relevant businesses as a result; if it has, of the numbers; if not, the reasons for that;*
- (c) given that some owners of medium goods vehicles have relayed to me that they have difficulties in operating their businesses, whether the Government will increase the level of ex-gratia payments as well as further extend the retirement deadlines of DCVs; if so, of the details; if not, the reasons for that;*
- (d) given that the retirement deadlines of Euro I to III DCVs have been extended by one year to 2017, 2018 and 2020 respectively, while that of pre-Euro DCV models is maintained at 2016, whether the authorities have estimated the number of DCVs of the relevant emission standards that will retire in the next three years; if they have, of the number; if not, the reasons for that; whether they have assessed the number of second-hand Euro IV vehicles available for purchase by owners of retired vehicles in the next three years; if so, of the number; if not, the reasons for that;*
- (e) whether the Government has taken measures to ensure that the prices of second-hand and new DCVs be maintained at reasonable*

*levels, so as to forestall the situation of demand outstripping supply and prevent vehicle dealers from jacking up the prices; if so, of the details; if not, the reasons for that;*

- (f) whether it has considered adjusting the amount of ex-gratia payments according to the inflation rate on a regular basis; if so, of the details; if not, the reasons for that;*
- (g) whether it has considered providing interest-free loans to assist and encourage owners of DCVs to replace their vehicles; if so, of the details; if not, the reasons for that;*
- (h) given that the transport sector strongly oppose the Government's setting the service life limit of newly registered Euro V DCVs at 15 years, whether the Government will consider renewing the licences of such vehicles which are 15 years old but have passed the vehicle examinations; if so, of the examination standards concerned; if not, the reasons for that; whether it will consider extending the service life limit of such vehicles; if so, of the number of years by which such limit will be extended; if not, the reasons for that;*
- (i) of the measures put in place to prevent people from obtaining the ex-gratia payments offered by the Government by importing second-hand DCVs at low costs from abroad; and*
- (j) given that some members of the vehicle repair sector have indicated that with the massive use of electronic parts and components in Euro IV and post-Euro IV DCVs, it is necessary for vehicle mechanics to be equipped with a certain level of computer knowledge and be provided with data support from vehicle manufacturers in order to provide repair service for such vehicles, whether the Government has assessed the number of workshops specialized in repairing DCVs that will close down as a result of having no access to such knowledge or data support; if so, of the number; if not, the reasons for that; and whether dealers of DCVs will be required to make public the relevant technology and information, and to provide relevant training courses for vehicle mechanics?*

**SECRETARY FOR THE ENVIRONMENT** (in Chinese): President, the Chief Executive proposed in the 2013 Policy Address to phase out some 80 000 pre-Euro IV DCVs through an incentive-cum-regulatory approach. The Environment Bureau and the EPD actively discussed the details of the proposal with the transport trades thereafter, and revised the proposal in light of the views of the trades. When compared with the proposal put forth early this year, the revised proposal has increased the ex-gratia payment levels ranging from previously 10% to 30% to 27% to 33% of average taxable values of new vehicles, and reduced the number of age bands from five to three, such that owners of DCVs, in particular the pre-Euro and Euro I ones, may receive higher payment. The ex-gratia payment level will only be linked with the age of the phased-out vehicles but not whether vehicle owners procure new vehicles so as to give greater flexibility to vehicle owners to choose whether and when to buy a replacement vehicle. Besides, the revised proposal has also deferred the retirement deadlines for Euro I, Euro II and Euro III DCVs by one year respectively. The retirement deadline for pre-Euro DCVs will thus be 1 January 2016, while that for Euro I is 1 January 2017, Euro II is 1 January 2018 and Euro III is 1 January 2020. For newly registered vehicles, they are subject to a service life limit of 15 years.

Based on the consensus reached with the transport trades, we tabled the Air Pollution Control (Air Pollutant Emission) (Controlled Vehicles) Regulation (the Regulation) at the Legislative Council on 30 October this year after obtaining the support of the Legislative Council Panel on the Environmental Affairs to the revised proposal on 2 October. The Legislative Council has formed a subcommittee to scrutinize the Regulation. We plan to seek the funding approval from the Legislative Council Finance Committee for implementing the ex-gratia payment scheme in the first quarter of 2014. The subcommittee that scrutinizes the Regulation held a public hearing on 26 November 2013 on the Regulation. Most of the transport trades who spoke in the hearing supported the revised proposal and looked forward to its early implementation.

Regarding the questions raised by Dr LAM Tai-fai, our responses are as follows:

- (a) As of end October 2013, there were some 82 000 registered pre-Euro IV DCVs. A profile of these vehicles is at Annex A. Since the frequency of use of vehicles is subject to changes due to

the different operational modes of individual trade and vehicle owners, as well as the overall economic cycle, we do not have the information of the frequency of use of these vehicles.

- (b) Having regard to the views of the trades, our revised proposal only correlates the ex-gratia payment level with the age of the phased-out vehicles but not whether the vehicle owners procure replacement vehicles, such that vehicle owners can choose whether and when to buy a replacement vehicle (new or second-hand) taking into account their personal circumstances. In addition, the Government has also increased the level of ex-gratia payment. The original and revised proposals of ex-gratia payment are at Annex B. Based on these revised proposals, the mainstream view of the transport trades (including some representatives of "single vehicle owners" or operators of smaller business scale) was that the proposal was acceptable. Besides, we also contacted the banking industry and understood that there were different plans of car loan in the market for application by vehicle owners. The loan amount can be up to 90% of the vehicle price and the current interest rate is in general lower than the prime rate. Whether procuring a replacement vehicle and the future operational mode of business are commercial decisions of the vehicle owners. In addition, we do not have information that can reflect the financial statuses of the vehicle owners or companies concerned. We therefore cannot evaluate the impact of the proposal on the number of vehicle owners or companies concerned in future.
- (c) Our revised proposal has already been optimized in the light of the transport trades' views, and was acceptable to the transport trades in general. The revised ex-gratia payment package would amount to around \$11.7 billion, representing an increase of around \$3 billion from the estimated funding of \$8.7 billion required under the original offer made in January 2013. Further increasing the ex-gratia payment level will go against the principles of prudent use of public funds and the polluter pays. In addition, the revised proposal has already deferred the retirement deadlines for Euro I, Euro II and Euro III DCVs by one year respectively. Further extension of the proposed retirement deadlines would fail to improve roadside air

pollution problems as soon as possible, and also compromise the attainment of the new Air Quality Objectives by 2020 and the compliance of the 2015 and 2020 emission reduction targets jointly set by the Government and the Guangdong Provincial Government.

(d) and (e)

If the Regulation is passed by the Legislative Council, some 32 000 pre-Euro and Euro I DCVs will be phased out by the end of 2016. As for the some 50 000 Euro II and III DCVs, they could be used until 31 December 2017 and 31 December 2019 respectively. Generally speaking, vehicle owners will take into consideration such factors as the conditions of their vehicles, their financial situations and personal considerations in deciding when to scrap these vehicles. Therefore, we cannot estimate the specific number of vehicles to be retired each year.

The local market for commercial vehicles is open. We welcome vehicle manufacturers from different regions to introduce to the local market vehicles that comply with the statutory requirements on vehicle emissions standards and road safety, both of which are formulated with reference to international standards. All major vehicle manufacturers from Europe and Japan have already introduced their vehicles into the local market. The production capacity of these vehicle manufacturers is sufficient to cope with the increased vehicle demand brought about by the implementation of the proposal. As there is sufficient competition in the local market, we trust that vehicle prices would be maintained at reasonable levels.

The supply of local second-hand vehicles is primarily affected by the existing vehicle owners. They will decide whether and when to sell their vehicles taking into account such factors as the conditions of their vehicles, their financial situations and personal considerations. Since the reliability of too old vehicles is relatively lower, these vehicles may not be able to cope with the needs of commercial operations. Transactions of second-hand vehicles therefore often involve newer vehicle models, such as Euro III or subsequent vehicles. Currently there are some 30 000 Euro III DCVs. These

vehicles can be used until 31 December 2019. There are also some 52 000 Euro IV or V DCVs that were registered before the commencement of the Regulation as of October 2013. We therefore do not anticipate any shortage of supply of second-hand vehicles.

- (f) Once the ex-gratia payment level is fixed, it will remain the same throughout the whole period of the scheme so as to give extra impetus to encourage vehicle owners to phase out old vehicles earlier.
- (g) We have consulted the banking industry on the loan arrangements for vehicle procurement. The trade in general expects that banks would offer competitive plans of car loan to vehicle owners. The prevailing loan amount can be up to 90% of the vehicle price and the interest rate is in general lower than the prime rate. Therefore, the Government has no plan to introduce loan arrangements in the ex-gratia payment scheme. Small and medium enterprises that intend to purchase replacement vehicles may also consider applying for the Small and Medium Enterprise Loan Guarantee Scheme administered by the Trade and Industry Department.
- (h) The current air quality in Hong Kong is still far from meeting the ultimate goals of the World Health Organization's Air Quality Guidelines. We need to improve air quality continuously, including timely replacing in-use DCVs with more environmental friendly ones. We therefore propose setting the service life limit of 15 years for newly registered DCVs in future. Under the Regulation, newly registered DCVs, on each licence application from its 15th anniversary date of first registration, are required to comply with the emission standards applicable to new vehicles at that time. We could hardly make use of the latest vehicle emission reduction technologies to achieve the objective of improving air quality as soon as possible if the service life limit for DCVs is further extended.
- (i) All new vehicles and second-hand vehicles are required to comply with the prevailing statutory emission standards when they are first



registered in Hong Kong. The current statutory emission standards are Euro V. This requirement can prevent people from obtaining the ex-gratia payment offered by the Government by importing second-hand aged DCVs from abroad.

- (j) We have been requesting vehicle suppliers to make public technical information on vehicle maintenance such that the vehicle maintenance trade can repair vehicles properly. Currently, vehicle suppliers will provide information about vehicle maintenance to customers upon request. Some vehicle suppliers also arrange workshops on vehicle maintenance skills for vehicle maintenance mechanics. On the other hand, the Vocational Training Council is going to set up a database on vehicle maintenance, and provide technical support to the vehicle maintenance trade. We are exploring with the Vocational Training Council and vehicle manufacturers the feasibility of arranging vehicle maintenance courses.

## Annex A

Profile of Registered DCVs (as at end October 2013)

Engine Standard (Years of service)	Light Goods Vehicles		Medium Goods Vehicles (5.5<gvw<=24 T)		Heavy Goods Vehicles (gvw>24 T)		Non-franchised Bus		Public Light Bus (diesel)		Private Light Bus (diesel)		All DCVs	
	No. of vehicles	% of total	No. of vehicles	% of total	No. of vehicles	% of total	No. of vehicles	% of total	No. of vehicles	% of total	No. of vehicles	% of total	No. of vehicles	% of total
Pre-Euro (18+ years)	9 717	7.3%	7 097	5.3%	669	0.5%	180	0.1%	16	0.0%	315	0.2%	17 994	13.5%
Euro I (15-18 years)	10 563	7.9%	2 411	1.8%	313	0.2%	131	0.1%	287	0.2%	357	0.3%	14 062	10.5%
Euro II (12-15 years)	10 651	8.0%	6 076	4.5%	782	0.6%	616	0.5%	512	0.4%	401	0.3%	19 038	14.2%
Euro III (7-12 years)	17 534	13.1%	9 646	7.2%	514	0.4%	2 619	2.0%	406	0.3%	192	0.1%	30 911	23.1%
Euro IV or above (0-7 years)	28 942	21.6%	15 077	11.3%	2 528	1.9%	4 090	3.1%	232	0.2%	830	0.6%	51 699	38.7%
Total	77 407	57.9%	40 307	30.1%	4 806	3.6%	7 636	5.7%	1 453	1.1%	2 095	1.6%	133 704	100%

## The Original and Revised Proposals of Ex-gratia Payment

		Age of Scrapped vehicles and Ex-gratia Payment Level (Based on average taxable values of new vehicles)				
		18 years or above	16 years - below 18 years	13 years - below 16 years	10 years - below 13 years	Below 10 years
Original Proposal	Without replacing with new vehicles	10%	12%	14%	16%	18%
	With new replacement vehicles of the same class	18%	21%	24%	27%	30%
Revised Proposal	Regardless of whether vehicle owners replace their vehicles with new ones	16 years and above 27%		13 years - below 16 years 30%	Below 13 years 33%	

**Improvement to Services Provided for Bus Passengers**

17. **MR WU CHI-WAI** (in Chinese): *President, the Government has all along been monitoring and improving the facilities at public transport interchanges (PTIs). It also mentioned in the 2012-2013 and 2013-2014 Budgets that it would continue to review the scope of the management contract for government-owned covered PTIs. As regards public transport operators, the New World First Bus Service Limited (NWFB), the Citybus Limited (CTB) and the Long Win Bus Company Limited (LW) pledged to enhance passenger information when they were granted new franchises last year. The NWFB has planned to install information display panels (display panels) at a number of bus termini, and it has also provided real-time bus arrival enquiry service for the Cityflyer routes of the CTB. Apart from those three franchised bus companies, the Kowloon Motor Bus Company (1933) Limited (KMB) has also made improvements in recent years to the facilities in its bus stations to enhance the provision of passenger information, and provided the "Estimated Bus Arrival Time System" at the bus-bus interchange (BBI) on Tuen Mun Road. Besides, I have learnt that the KMB plans to introduce a satellite tracking system on some routes (including routes Nos. 23, 23M and 26M) on a trial basis to enhance fleet management. In this connection, will the Government inform this Council:*

- (a) *of the plans implemented by the Government in the past three years to improve the environment for passengers waiting for buses and the facilities at government-owned covered PTIs (including ventilation, illumination, management of passenger flow, barrier-free access and other facilities); whether the Government has any plan at present to carry out new improvement works at such PTIs; if it has, of the details; as it has been reported that some franchised bus companies have submitted to the Transport Department (TD) proposals for improving the environment of PTIs, of the relevant details;*
- (b) *as the Government has mentioned that it would continue to review the scope of the management contract for its covered PTIs, of the names of the PTIs and the contents of the review;*
- (c) *of the efforts made by the three bus companies with new franchises granted in honouring their aforesaid pledges of enhancing passenger information (including the number of bus termini at which the companies have installed, or plan to install, display panels as well as other efforts), with a list of those information and work progress by location;*
- (d) *given that the Government stated in its reply to the question of a Member of this Council in May this year that "[t]aking into account factors such as the operability, reliability and cost-effectiveness of applying the technology concerned in different operating situations, we will consider whether it is necessary to require bus companies, through the franchise or other means, to provide passengers with estimated bus arrival time vide announcing devices at BBIs or mobile phone applications", whether the TD or the franchised bus companies have conducted an assessment on the reliability of the real-time bus arrival time enquiry services provided by various franchised bus companies at present; if they have, of the assessment results; if not, when the assessment will be conducted; whether it knows if such companies have any plan at present to extend the enquiry service to cover other bus routes; and*
- (e) *whether it knows the details of the KMB's recent plan to introduce technology for enhancing its fleet management; of the assistance the TD will render to the KMB in respect of such plan?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the Government has all along been striving to facilitate and monitor the efforts of franchised bus companies to enhance facility and improve service. My reply to the various parts of Mr WU Chi-wai's question is as follows:

- (a) The Government owns 59 covered PTIs. They were constructed in accordance with the relevant guidelines and standards in terms of design, illumination, ventilation and other aspects prevailing at the time. The Government has been striving to enhance the waiting environment and facilities at PTIs, and to implement appropriate improvement measures at PTIs whenever practicable. Between 2010 and October 2013, the Government completed works to improve the waiting environment and facilities at 45 PTIs as shown in Annex 1. Notwithstanding that the purpose of the works at different PTIs varies, they mainly concern improvement to passenger facilities and passenger flow control, improvement to the ventilation system and improvement to the lighting system. There are currently seven PTIs at which improvement works to the waiting environment and facilities are in progress or in the pipeline (see Annex 1).

Meanwhile, the TD has been encouraging franchised bus companies to enhance passenger signage and waiting facilities at PTIs. Upon receipt of applications from bus companies, the TD will vet such applications from perspectives such as road traffic and pedestrian safety, and co-ordinate and follow-up with other relevant departments. For example, to tie in with bus route rationalization in the North District this year, the TD had approved the application from the KMB to upgrade the auxiliary facilities at Wah Ming Bus Terminus in Fan Ling and Sheung Shui Railway Station PTI. Such facilities include bus stop plates, passenger signage and queuing facilities. The TD is aware that a bus company is considering improving the design and environment of individual PTIs but has so far only received some conceptual suggestions. Upon receiving detailed proposals, the TD will study them in depth.

- (b) The TD plays a co-ordinating role in the daily management and maintenance of PTIs. Other relevant departments (such as the Food and Environmental Hygiene Department, Highways Department,

Architectural Services Department and Electrical and Mechanical Services Department) will follow-up on the tasks concerned having regard to their responsibility. This arrangement has worked well. Yet, the TD is now reviewing with the relevant departments, from the perspectives of enhancing management efficiency and cost-effectiveness of PTIs, the feasibility of outsourcing the daily management and maintenance of PTIs to service contractors on management contracts. Issues being considered include the merits and drawbacks of changing the existing arrangement as well as the exercise of the statutory power by the relevant departments under any new arrangement. The review takes into account the efficiency and cost-effectiveness of the management of all PTIs in general. It is not targeting at any specific or individual PTI(s).

- (c) Under their new franchises starting from 2013, the NWFB, LW and CTB in respect of its franchise for the Airport and North Lantau bus network (Citybus (Franchise 2)) have committed to make the following improvements at their facilities for enhancing dissemination of passenger information:
- (i) installing more Liquid Crystal Display (LCD) panels at eight major bus termini for displaying route information and departure time of the next bus;
  - (ii) enhancing passenger information provided on-board buses. The NWFB and Citybus (Franchise 2) will equip all new buses with LCD panels to display the name of the next bus stops. The LW will provide more detailed route information such as bus routes, location of bus stops and service frequencies inside the compartments of all its buses;
  - (iii) providing passenger information and enquiry system via Internet and smart phone applications, and further enhancing the system where appropriate; and
  - (iv) providing bus arrival information. The Citybus (Franchise 2) will provide real-time bus arrival information on all its airport routes (that is, "A" routes) through the company's website and smart phone; the LW will conduct a trial on the provision of

real-time bus arrival information on selected routes; and the NWFB will provide the estimated bus arrival time of selected routes with lower frequencies based on scheduled bus arrival time at major bus stops and the company's website.

Progress of the above work is set out at Annex 2.

- (d) The Government has all along been encouraging and welcomes the adoption of information technology by franchised bus companies to provide passengers with more travelling information and improve bus facilities. Apart from the improvement measures undertaken by the three bus franchises above, another operator is trying out an Estimated Bus Arrival Time System at Tuen Mun Road BBI. Overall speaking, such a system is technically reliable to a certain extent. Yet, it entails considerable capital investment and operation cost. Thus, in considering whether to make wider use of the system, bus companies have to take into account passenger needs and the cost-effectiveness of the system under different operating environment. The Government will continue to keep in view the progress of the use of the Estimated Bus Arrival Time System by bus companies.
- (e) As the TD understands it, the KMB is considering making use of the technology to track the exact locations of travelling buses so that front-line personnel can deploy buses with greater flexibility according to passenger and operational needs. The KMB has yet to submit details to the TD.

Annex 1

- (1) Government-owned covered PTIs with improvement works completed between 2010 and October 2013 (45 in total)

*Hong Kong Island*

1. Central (Exchange Square) Bus Terminus
2. Central (Hong Kong Station) Public Transport Interchange
3. Cyberport Public Transport Interchange

*Hong Kong Island*

4. Shau Kei Wan Station Public Transport Interchange
5. Sham Wan Road Public Transport Terminus
6. Siu Sai Wan (Island Resort) Public Transport Interchange
7. South Horizons Public Transport Interchange
8. The Peak Public Transport Interchange
9. Tin Hau Station Public Transport Interchange

*Kowloon*

1. Diamond Hill MTR Station Public Transport Interchange
2. Island Harbourview Public Transport Interchange
3. Kau Wah Keng Public Transport Interchange (Lai Chi Kok Bus Terminus)
4. Kowloon Bay Public Transport Interchange
5. Kowloon Station Public Transport Interchange
6. Kowloon Tong (Festival Walk) Public Transport Interchange
7. Laguna City Public Transport Interchange
8. Lam Tin Station Public Transport Interchange
9. Langham Place Public Light Bus Terminus
10. Park Avenue Public Transport Interchange
11. Tsim Sha Tsui East Bus Terminus

*The New Territories*

1. Bayshore Towers Public Transport Interchange
2. Bayview Garden Bus Terminus
3. Discovery Park Public Transport Interchange
4. Hang Hau Station Public Transport Interchange
5. Kwai Fong Station Bus Terminus
6. Kwai Hing Station Bus Terminus
7. Luen Wo Hui Public Transport Terminus
8. Lung Mun Oasis Bus Terminus
9. Ma On Shan Town Centre Public Transport Interchange
10. Po Lam Public Transport Interchange
11. Sai Lau Kok Public Transport Interchange
12. Sha Tin Central Bus Terminus
13. Sheung Shui Bus Terminus
14. Tai Po Market Station Bus Terminus
15. Tai Wai Station Public Transport Interchange

*The New Territories*

16. Tiu Keng Leng Station Public Transport Interchange
17. Tseung Kwan O Station Public Transport Interchange
18. Tsuen Wan Station Public Transport Interchange
19. Tsuen Wan West Station Public Transport Interchange
20. Tuen Mun Central Bus Terminus
21. Tuen Mun Pier Head Bus Terminus
22. Tuen Mun Station Public Transport Interchange
23. Tung Chung Station Bus Terminus
24. Vision City Public Light Bus Terminus
25. Wu Kai Sha Station Public Transport Interchange

(2) Government-owned covered PTIs with improvement works in progress or in the pipeline (Seven in total)

1. Central (Exchange Square) Bus Terminus
2. Kwai Fong Station Bus Terminus
3. Sam Shing Bus Terminus
4. Kau Wah Keng Public Transport Interchange (Lai Chi Kok Bus Terminus)
5. Discovery Park Public Transport Interchange
6. Laguna City Public Transport Interchange
7. Diamond Hill MTR Station Public Transport Interchange

Annex 2

<i>Commitments</i>	<i>Work Progress</i>
(1) installing more LCD panels at eight major bus termini for displaying route information and next bus departure time	<p>Completed</p> <ul style="list-style-type: none"> <li>- Airport (Ground Transportation Centre) Bus Terminus</li> <li>- Cyberport PTI</li> </ul> <p>Scheduled for completion in 2014</p> <ul style="list-style-type: none"> <li>- Airport (AsiaWorld-Expo) Bus Terminus</li> <li>- Yat Tung Estate PTI</li> <li>- Grand Promenade PTI</li> <li>- The Peak PTI</li> </ul>



<i>Commitments</i>	<i>Work Progress</i>
	<p>Scheduled for completion in 2015</p> <ul style="list-style-type: none"> <li>- Yiu Tung Estate PTI</li> </ul> <p>Scheduled for completion in 2016</p> <ul style="list-style-type: none"> <li>- North Point Ferry Pier PTI</li> </ul>
<p>(2) NWFB and Citybus (Franchise 2) will equip all newbuses with LCD panels in their compartments to display the name of the next bus stops</p> <p>LW will provide more detailed route information inside the compartments of all its buses</p>	<p>At present, all franchised buses are equipped with visual and/or audio bus announcement systems to provide passengers with bus stop information on-board.</p> <p>All new NWFB and Citybus (Franchise 2) buses are equipped with LCD panels inside their compartments to display their routes and the name of the next bus stops. There are about 260 such buses at present.</p> <p>LW has provided more detailed route information inside the compartments of all its buses. Such information includes bus routes, location of bus stops and service frequencies.</p>
<p>(3) providing passenger information and an enquiry system via Internet and smart phone applications, and further enhancing the information and enquiry system where appropriate</p>	<p>NWFB, LW and Citybus (Franchise 2) have been providing passenger information and an enquiry system through the companies' websites and smart phone applications.</p>
<p>(4) Citybus (Franchise 2) will provide real-time bus arrival information on all its "A" routes through the company's website and smart phone applications</p>	<p>Currently, Citybus (Franchise 2) are providing passengers with real-time bus arrival information on all its "A" routes through the company's website and smart phone applications.</p>

<i>Commitments</i>	<i>Work Progress</i>
LW will conduct a trial on the provision of real-time bus arrival information on selected routes	LW has started trying out the Estimated Bus Arrival Time System at Tuen Mun Road BBI.
NWFB will provide estimated bus arrival time for selected routes with lower frequencies at major bus stops and the company's website	NWFB is providing estimated bus arrival time for 14 routes with lower frequencies at major bus stops and the company's website.

### **Profits Tax Assessments**

18. **MR KENNETH LEUNG:** *President, on 12 November 2013, the Court of Final Appeal (CFA) handed down a judgment in the case of Commissioner of Inland Revenue v. Nice Cheer Investment Limited, which upheld the rulings of both the Court of First Instance and the Court of Appeal that unrealized profits arising from revaluation of unsold stock were not chargeable to profits tax. The CFA held that while the amount of taxable profit must be computed and ascertained with the ordinary principles of commercial accounting, these are always subject to the overriding requirement of conformity, not merely with the express words of the statute, but with the way in which they have been judicially interpreted. In this connection, will the Government inform this Council whether the Inland Revenue Department (IRD) will:*

- (a) adhere to the underlying principle of taxation enunciated in the aforesaid judgment when dealing with disputed profits tax assessments in future; and*
- (b) re-assess the taxable profits, in accordance with the said principle, for similar cases with undisputed profits tax assessments?*

### **SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY:**

President, the Government is committed to maintaining clarity of the tax regime and stability of tax revenue. Taking into consideration the facts of each case, the IRD will make tax assessment and deal with objection and appeal matters arising

from judgments in accordance with the relevant provisions of the Inland Revenue Ordinance (IRO) and the legal principles laid down by the CFA. Our reply to the two parts of the question is as follows:

- (a) The CFA's judgment in respect of Nice Cheer Investment Limited involves legal interpretation and technical issues concerning the computation of assessable profits. On the basis of complying with the basic principles set out in the aforementioned judgment, the IRD is studying the judgment in detail and examining such matters as scope of application of the relevant principles and actual practice.
- (b) The IRO stipulates that if a taxpayer has not raised objection to his tax assessment within the specified period (that is, within one month after the date of the notice of assessment), the relevant assessment will become final and conclusive and generally cannot be amended or revised. A court judgment will not have retrospective effect on cases where the assessments have already become final and conclusive.

### **Broadband Internet Access Services in Remote Areas**

19. **MR CHARLES PETER MOK** (in Chinese): *President, I have received complaints from some members of the public, pointing out that quite a number of remote areas such as outlying islands and villages in the New Territories, and so on, as well as some residential buildings in the urban area have access to broadband Internet access services provided by a single fixed network broadband data service operator (operator). When the service contracts are renewed, such operators often increase their charges drastically to a level much higher than that those they are charging other users who have access to services provided by more than one operator. It has been reported that the Consumer Council has pointed out that the adoption of differential charging for different areas by the operators might amount to discriminatory pricing and urged the Government to solve the problem of such services in remote areas being monopolized by operators. In this connection, will the Government inform this Council:*

- (a) *whether it has assessed if the operators' practice of adopting differential pricing for users in different areas is a breach of the relevant licence conditions; whether the authorities will review the*

*existing legislation with a view to eradicating such practice; if they will, of the details; if not, the reasons for that;*

- (b) of the respective separate and overall household penetration rates and coverage of the Fibre-to-the-Home (FTTH) and Fibre-to-the-Building (FTTB) services across the territory, and such percentages in each District Council (DC) district, as at the end of October this year; the respective percentages of the numbers of households and buildings which access the Internet via channels other than fibre-based networks in the relevant totals in each DC district;*
- (c) whether the percentage of the number of buildings covered by the FTTH or FTTB services in the total number of buildings has increased since the introduction of the Registration Scheme for Buildings with Optical Fiber-based Access Networks; how many of these two types of buildings are situated in remote areas, with a breakdown by DC district; and*
- (d) whether the authorities took any specific measure to promote the development of fibre-based networks in remote areas (including encouraging operators to invest in the development of networks) in the past three years, so as to enhance the penetration rate, reliability and connection speed of the broadband Internet access services in remote areas; if they did, of the details; if not, the reasons for that?*

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

- (a) Under the existing section 7N of the Telecommunications Ordinance (Cap. 106) (TO) (hereinafter referred to as "section 7N"), a licensee who is in a dominant position in a telecommunications market shall be prohibited to discriminate between persons who acquire the services in the market on charges or the conditions of supply. The prohibition provision applies only where in the opinion of the Communications Authority (CA) such discrimination has the purpose or effect of preventing or substantially restricting competition in a telecommunications market. If the pricing of an

operator falls under the price discrimination which is prohibited under section 7N, the CA will conduct an investigation in accordance with the TO and the established procedures and take regulatory actions where necessary.

Between 2011 and 2012, the CA received a number of complaints against a residential fixed broadband service provider about charging different monthly service fees for different areas. The CA, having regard to the number of service providers in the residential fixed broadband service market in Hong Kong, their respective market shares and the feasibility of using mobile broadband service as a substitute for the residential fixed broadband service, has concluded that the service provider in question is unlikely to be in a dominant position in the relevant market, and hence the prohibition provision under section 7N is not applicable. Besides, the CA considers that it is not uncommon for operators to set different prices for different customer groups in a highly competitive telecommunications service market, and it may not amount to a deviation from the normal operation of the market resulting in a breach of section 7N.

The Competition Ordinance (Cap. 619) (CO) was enacted in June 2012 and will be implemented in phases. The competition provisions of the TO, including section 7N, will be repealed after the conduct rules of the CO coming into force. By then, any anti-competitive behavior in the telecommunications industry will be regulated by the CO which applies across different sectors. The Administration has no plan to review the relevant legislation.

(b) and (c)

When the Voluntary Registration Scheme for Buildings with Optical Fibre Access Networks (the Scheme) was launched in November 2010 with the participation of five operators, the numbers of residential buildings registered with FTTH and FTTB were about 2 100 and 6 600 respectively. The Scheme was expanded to cover non-residential buildings in Hong Kong in April 2013. At present, there are a total of seven operators participating in the Scheme. As at October 2013, the Scheme has recorded over 11 200 FTTH and 2 300 FTTB residential buildings, accounting for about 72% and

11% of the total households respectively across the territory. However, we do not have a breakdown by districts. The number of FTTH residential buildings has now increased by more than four times as compared with that in the early days of the Scheme. In the meantime, some of the FTTB residential buildings have been upgraded to FTTH, resulting in a relative drop in the number of residential buildings using FTTB access technology.

- (d) With the full liberalization of the telecommunications market in Hong Kong, the provision of fixed broadband service, the network coverage and the type of technologies adopted are primarily based on the operators' commercial considerations. Regarding whether fibre-based network service will be provided in remote areas, it is a matter of commercial decisions for the operators. Upon the receipt of a request for fixed broadband service in remote areas, the Office of the Communications Authority (OFCA) will relay it to operators and encourage them to explore feasible options, with a view to enhancing the network coverage of the subject areas and meeting market needs.

The OFCA will, as it has been the case all along, be committed to offering facilitation measures to encourage and assist operators to invest in network expansion, so as to enhance network coverage and access. These measures include providing assistance to operators in establishing network across public streets, government-owned bridges and tunnels; explaining to property management companies and owners' corporations the responsibilities and accountability of operators in respect of network rollout in private premises, and so on.

### **First Aid Facilities and Services Provided to Ferry Passengers**

20. **DR KWOK KA-KI** (in Chinese): *President, it has been reported that a Cheung Chau resident was suspected to have had a heart attack while on board a ferry sailing from Central to Cheung Chau on 28 April this year, and passed away after admission to the hospital for emergency rescue. Some ferry passengers have relayed to me that at present, ferries are not equipped with automated external defibrillators (AEDs) and even basic first aid facilities are*

also inadequate on board. As a result, the conditions of passengers who are injured or under heart attack may deteriorate as they have not received any first aid treatment. In this connection, will the Government inform this Council:

- (a) of the respective numbers of cases involving injuries or deaths of passengers caused by accidents while they were on board a ferry, and cases involving bouts of illness of passengers, in the past five years;
- (b) of the number of injured ferry passengers transferred by ambulance from ferry piers to hospitals for treatment in the past five years; the average time span between the moment when they were injured and their arrival at hospital;
- (c) whether the authorities have any plan to require ferry companies to arrange first aid training for their staff, and to provide subsidies for such training activities; and
- (d) whether the authorities have required ferry companies to regularly replenish the first aid facilities on board; if they have, of the detail; whether the authorities will require ferry companies to install AEDs on board?

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, our reply to the various parts of Dr KWOK Ka-ki's question is as follows:

- (a) According to the Marine Department's Marine Accidents Statistics, the number of persons killed and injured in relation to franchised and licensed ferry services in the past five years is as follows:

<i>Year</i>	<i>Persons Injured</i>	<i>Persons Killed</i>
2008	7	0
2009	14	0
2010	1	0
2011	76	0
2012	22	0

The Marine Department does not have the statistics of cases involving bouts of illness of passengers on franchised and licensed ferries.

- (b) According to the Fire Services Department, the Department does not have the statistics regarding the time span for transferring injured ferry passengers from ferry piers to hospitals by ambulances.
- (c) Pursuant to the Examination Rules for Local Certificates of Competency made under section 16 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) of Hong Kong shipping ordinances, applicant for the issue of a Coxswain Grade 1 Certificate or an Engine Operator Grade 1 Certificate must hold a first aid certificate issued by the Marine Department's approved training institutes.

Currently, all franchised and most of the licensed ferry vessels are operated by holders of Coxswain Grade 1 Certificate and Engine Operator Grade 1 Certificate, except some individual ferry routes which are running services with smaller vessels due to low patronage.

The said first aid training requirements are stipulated in accordance with the aforementioned Ordinance. The Marine Department has no plan to provide subsidies for these trainings.

- (d) Regarding the first aid facilities, pursuant to Annex I-6 of the Code of Practice — Safety Standards for Class I, II and III Vessels, made under section 8 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548) of Hong Kong shipping ordinances, Class I vessels (which include local franchised and licensed ferries) and Class II vessels plying within river trade limits should be provided with first aid kit. Ship owner/coxswain should regularly check the items in the first aid kit, make sure that they are not past their best before dates, and replenish them as and when necessary. At the same time, the number of first aid kits should be sufficient and in relation to the number of passengers onboard. The first aid items should also be placed in conspicuously marked and easily accessible containers. The Marine Department officers will inspect the first



aid kits to see if they comply with the requirement of the Code of Practice during regular vessel survey.

According to the Food and Health Bureau, automatic external defibrillators (AEDs) are medical devices used to perform cardiac resuscitation on patients. Medical and first-aid researches have shown that with the simultaneous use of an AED in the course of performing cardiopulmonary resuscitation on a patient suffering from heart attack, the survival rate of the patient could be increased. However, before using AEDs on patients, consideration must be given to the patients' prevailing circumstances and attention must be paid to the operation procedures. In this connection, anyone using an AED should first receive training on first aid and operation of the device, and should send the patients to hospitals for further medical treatment as quickly as possible. Currently, there is no statutory requirement for the installation of AEDs. Should ferry operators wish to install AEDs, the Transport Department would be pleased to offer referral assistance through relevant departments to provide operators with the information about equipment procurement and training courses.

### **Grants Provided Under School-based After-School Learning and Support Programmes**

21. **MR CHEUNG KWOK-CHE** (in Chinese): *President, the authorities have been subsidizing schools in implementing the School-based After-school Learning and Support Programme (the Programme) since the 2005-2006 school year to provide suitable after-school activities for primary and secondary students receiving the Comprehensive Social Security Assistance (hereinafter referred as "students on CSSA") or full grant under the Student Financial Assistance Schemes (hereinafter referred as "full-grant students"). Schools also have the discretion to offer no more than 10% of the places of each activity to other students in need (hereinafter referred as "discretion-based students"). Since the 2006-2007 school year, the authorities have revised the funding mode by apportioning the funding of the Programme into School-based Grant (SBG) and Community-based Projects. Schools offering the Programme will be provided with the SBG while non-governmental organizations (NGOs) organizing district activities under the Programme may apply for the Community-based*

*Projects grant (CBG). In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of primary and secondary students benefiting from the SBG and Community-based Projects (including students on CSSA, full-grant students, discretion-based students and non-eligible students) and the respective numbers of schools and NGOs subsidized in each school year since the 2006-2007 school year (set out by school year in tables of the same format as Table 1);*

*Table 1 School year: \_\_\_\_\_*

		<i>Primary schools</i>		<i>Secondary schools</i>	
		<i>SBG</i>	<i>Community-based Projects</i>	<i>SBG</i>	<i>Community-based projects</i>
<i>(i)</i>	<i>Number of students on CSSA</i>				
<i>(ii)</i>	<i>Number of full-grant students</i>				
<i>(iii)</i>	<i>Number of discretion-based students</i>				
<i>(iv)</i>	<i>Number of non-eligible students</i>				
<i>(v)</i>	<i>Total number of students who benefited</i>				
<i>(vi)</i>	<i>Schools subsidized</i>		<i>Not applicable</i>		<i>Not applicable</i>
<i>(vii)</i>	<i>NGOs subsidized</i>	<i>Not applicable</i>		<i>Not applicable</i>	

- (b) *in respect of the SBG in various District Council (DC) districts in each of the past three school years, of the following*

- (i) *the total amount of grants,*
- (ii) *the number of schools granted the SBG,*
- (iii) *the number of paid activities,*



- (c) of the respective numbers of primary and secondary schools retaining the unspent amounts under the SBG and the total amounts retained, as well as the respective numbers of primary and secondary schools returning the unspent amounts to the authorities and the total amounts returned, in each school year since the 2006-2007 school year, and set out the relevant figures in Table 3;

Table 3

School year	Primary schools				Secondary schools			
	Retaining the unspent amount under the SBG		Returning the unspent amount to the authorities		Retaining the unspent amount under the SBG		Returning the unspent amount to the authorities	
	Number of schools	Total amount retained	Number of schools	Total amount retained	Number of schools	Total amount retained	Number of schools	Total amount retained
2006-2007								
2007-2008								
2008-2009								
2009-2010								
2010-2011								
2011-2012								
2012-2013								

- (d) whether the authorities have rejected any application for the SBG and the CBG since the 2006-2007 school year; if they have, of the number of the applications rejected in each school year and the general reasons for refusal, and set out the relevant figures in Table 4;

Table 4

School year	SBG				Community-based Projects	
	Primary schools		Secondary schools		Number of applications rejected	Reasons for refusal
	Number of applications rejected	Reasons for refusal	Number of applications rejected	Reasons for refusal		
2006-2007						
2007-2008						
2008-2009						
2009-2010						
2010-2011						
2011-2012						
2012-2013						

- (e) *of the total amounts of CBGs allocated to NGOs in various DC districts, the number of students joining the activities organized (including the numbers of eligible and non-eligible students), the numbers of NGOs required to return the unspent amount of the approved grants to the authorities and the unspent amounts clawed back by the authorities in each of the past three school years (set out by school year in tables of the same format as Table 5);*

Table 5 School year: \_\_\_\_\_

DC district	NGOs	Total grants	Number of students joining the activities		Number of NGOs required to return the unspent amounts	Unspent amounts clawed back
			Eligible students	Non-eligible students		
Central and Western						
Wan Chai						
Eastern						
----						
Total						

- (f) *whether the authorities have conducted any review and consultation on the SBG and the Community-based Projects; if they have, of the details; if not, the reasons for that; and*
- (g) *as some organizations have proposed that the Education Bureau should adopt a funding mode of "money-follows-the-user" which enables eligible students to choose and participate in the after-school activities they need by using vouchers, whether the Government will consider implementing such a mode of funding; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President, public sector schools are provided with various types of subsidies (for example, the block grant) and other resources annually. Schools may deploy flexibly the subsidies and resources in accordance with the underlying principles of school-based management to support students' learning and provide after-school activities for students to facilitate their whole-person development. Besides, schools may apply for participation in the Programme. The Programme has been apportioned

into two components, *viz* the SBG and the CBG. The SBG is complementary in nature and the amount of funding for individual schools is based on the number of eligible needy students. The purpose of the SBG is to provide after-school activities to meet different needs of students concerned. Under the CBG, NGOs may apply for funding to provide after-school activities for needy students. Apart from participating in after-school activities under the school-based programmes and community-based projects, needy students may also join after-school activities organized by other Bureaux/Departments and charitable trust funds.

In formulating the implementation details of the Programme, we have considered and balanced the views of different stakeholders bearing in mind that labelling effect on participating students should be avoided and teachers' additional workload be alleviated. When recruiting students for activities under the SBG, apart from eligible students (including students in receipt of Comprehensive Social Security Assistance (CSSA) and full grant under the Student Financial Assistance Scheme (SFAS)), schools are given the discretion to offer no more than 10% of the places reserved for the eligible students to needy students other than those in receipt of CSSA or full grant under the SFAS. To avoid labelling effect on students, schools normally do not identify participating students by the categories of CSSA, the SFAS, discretionary quota or other students participating at their own expense (that is, the non-eligible students mentioned in part (a)). As such, we cannot provide the details of the participating students in this regard.

Schools receiving the SBG, similar to other initiatives being implemented, have to comply with the School Development and Accountability Framework. Schools in receipt of the funding have to include the relevant school-based implementation plan for supporting eligible students under the Programme in their school development plan. Schools are also required to conduct an annual evaluation with findings in their school report for uploading on to schools' homepage. Both school-based plan and evaluation report have to be endorsed by the School Management Committee/Incorporated Management Committee. We therefore do not require schools to provide other information, such as the number of activities with and without charges, average amount of grant for each participating student, and so on. As such, we cannot provide some of the information raised in part (b).

The replies to questions of Mr CHEUNG Kwok-che are as follows:

- (a) The number of participating students and number of schools as well as NGOs receiving the SBG and CBG respectively since the 2006-2007 school year are at Annex 1.
- (b) The funding of the SBG by district over the past three school years (from 2010-2011 to 2012-2013) is at Annex 2.
- (c) Schools may retain the unspent amount of the SBG subject to its not exceeding the total provision of the SBG for the current year with excessive amount to be clawed back by the Education Bureau. We have not input the information on the unspent amount of the SBG retained by schools and clawed back by the Education Bureau from the 2006-2007 to 2009-2010 school years in our database. As such, relevant information is not available. The situation of the 2010-2011 and 2011-2012 school years is at Annex 3 for reference.
- (d) Public-sector schools (including special schools) and schools under the Direct Subsidy Scheme (DSS) are eligible to apply for the SBG. The Education Bureau will not refuse any application from eligible schools. On the other hand, we will ask the non-participating schools<sup>(1)</sup> for reasons of not applying for the SBG. The main reason is that these schools have had other sources of funding to organize after-school activities for needy students. As regards the CBG, the number of projects not approved with funding from the 2006-2007 to 2012-2013 school years is at Annex 4. The main reasons for not approving the projects with funding include withdrawal of applications by NGOs, applicant NGOs not eligible for the Programme, proposed projects failing to meet the objectives of the Programme and duplicate applications (that is, overlapping with another application in terms of the proposed activities and eligible students), and so on.

(1) About 90% of schools have participated in the SBG in each school year from 2006-2007 to 2012-2013. In the 2012-2013 school year, 116 schools (including 40 DSS and special schools) did not participate in the SBG.

- (e) The funding of the CBG is approved according to the applications submitted by the NGOs. In the course of implementing the community-based projects in the respective year, the Education Bureau would allow the NGOs to revise the arrangements of the projects according to the progress reports and/or separate applications for adjustment from NGOs so as to facilitate better utilization of the approved funding. Under the CBG, the reason for the unspent amount is mainly due to the difference in the estimated number of participating students and expenses, and so on, in the proposal and the actual amounts. The total amount of CBG approved, the NGOs involved, number of participating students and unspent amount of the grant by district in the past three school years are shown at Annex 5.
- (f) Since the implementation of the Programme in the 2005-2006 school year, we have annually collected feedback from stakeholders and conducted supervisory visits to examine the implementation of the Programme with a view to refining its arrangements. In the 2006-2007 school year, after taking stakeholders' views into consideration, we have revised the implementation mode of the Programme by having two components, *viz* the SBG and CBG, with a view to achieving synergy through collaboration between schools and NGOs in supporting needy students. Starting from the 2010-2011 school year, the annual provision was increased from \$75 million to \$175 million to provide needy students with more opportunities to participate in after-school activities. In the 2011-2012 school year, the provision has been further increased to about \$208 million upon relaxation of the income threshold under the means test mechanism of the SFAS which in turn increases the number of eligible needy students.
- (g) As regards the proposed funding mode of "money-follows-the-user", for example, providing eligible students with coupons to participate in after-school activities, stakeholders have diverse views. We hold the view that provision of funding to schools and NGOs for organizing the activities will better ensure the usage of the funding for supporting students' participation in after-school activities when



compared with provision of direct subsidy to individual students. Moreover, after-school activities cover a wide spectrum and the expenses to be required for each grade or individual students vary. The mode of providing funding to schools and NGOs would achieve better synergy and be more targeted and effective for sustaining the development of the activities.

## Annex 1

**School-based After-school Learning and Support Programmes**  
**Number of Participating Schools/NGOs and Number of Participating Students**  
**from 2006-2007 to 2012-2013 School Years**

<i>Grant</i>  <i>School</i>  <i>year</i>	<i>SBG</i>						<i>CBG</i>			
	<i>Number of participating schools</i>			<i>Number of participating students (man-times)</i>			<i>Number of participating NGOs</i>	<i>Number of participating students</i>		
	<i>Primary</i>	<i>Secondary</i>	<i>Total</i>	<i>Primary</i>	<i>Secondary</i>	<i>Total</i>		<i>Primary</i>	<i>Secondary</i>	<i>Total</i>
2006-2007 <sup>(2)</sup>	547	413	960	-	-	-	128	31 000	16 700	47 700
2007-2008	514	425	939	167 000	258 400	425 400	145	29 590	12 810	42 400
2008-2009	464	437	901	145 000	242 100	387 100	138	30 570	11 030	41 600
2009-2010	456	440	896	83 300	129 700	213 000	153	37 860	13 640	51 500
2010-2011	433	420	853	103 400	156 600	260 000	157	46 000	22 600	68 600
2011-2012	441	430	871	104 800	158 700	263 500	164	49 240	28 860	78 100
2012-2013 <sup>(2)</sup>	446	433	879	-	-	-	167	52 020	26 380	78 400

## Notes:

- (1) Figures have been rounded up to the nearest hundred.
- (2) Figures in "Number of participating students (man-times)" are based on the school reports available. We are not able to provide figures for the 2006-2007 school year since school reports were not compiled upon revision of the mode of delivery of the Programme in the school year concerned. The school reports for the 2012-2013 school year are yet to be completed.

School-based After-school Learning and Support Programmes  
Number of Schools in Receipt of the SBG  
by District from 2010-2011 to 2012-2013 School Years

<i>District</i>	<i>2010-2011</i>		<i>2011-2012</i>		<i>2012-2013</i>	
	<i>Number of schools</i>	<i>SBG (\$)</i>	<i>Number of schools</i>	<i>SBG (\$)</i>	<i>Number of schools</i>	<i>SBG (\$)</i>
Central and Western	20	532,000	21	862,400	22	902,800
Wan Chai	16	756,000	20	915,600	21	816,800
Eastern	44	2,229,200	50	3,668,400	49	3,417,200
Southern	30	1,472,400	32	2,173,600	31	2,016,800
Islands	25	1,717,200	25	2,303,200	26	2,100,800
Kowloon City	47	2,874,400	52	3,866,000	55	3,784,800
Kwun Tong	71	7,250,800	69	10,251,200	67	9,682,400
Sai Kung	44	3,340,800	47	4,596,400	48	4,188,400
Sham Shui Po	51	4,674,000	51	6,450,800	51	6,168,400
Wong Tai Sin	55	4,491,200	53	6,128,000	52	5,667,600
Yau Tsim Mong	37	2,427,600	35	3,373,200	36	3,371,200
North	48	4,229,600	47	5,812,000	48	5,882,400
Sha Tin	76	4,934,000	77	6,683,200	78	6,437,600
Kwai Tsing	65	6,590,000	67	9,012,000	66	8,394,400
Tuen Mun	72	5,341,600	72	7,646,800	74	7,388,400
Tai Po	42	2,648,000	42	3,715,200	41	3,577,200
Tsuen Wan	24	1,679,200	25	2,547,200	28	2,648,000
Yuen Long	86	8,170,800	86	11,292,800	86	10,388,000
Total	853	65,358,800	871	91,298,000	879	86,833,200

Note:

The total number of participating students (man-times) is at Annex 1.

## Annex 3

School-based After-school Learning and Support Programmes  
Unspent Amount of the SBG Retained by Schools and  
Clawed Back by the Education Bureau  
in 2010-2011 and 2011-2012 School Years

<i>School Year</i>	<i>Primary schools</i>				<i>Secondary schools</i>			
	<i>Grant retained (\$)</i>	<i>No. of schools involved</i>	<i>Grant returned to the Education bureau (\$)</i>	<i>No. of schools involved</i>	<i>Grant retained (\$)</i>	<i>No. of schools involved</i>	<i>Grant returned to the Education bureau (\$)</i>	<i>No. of schools involved</i>
2010-2011	9,457,000	344	737,000	77	19,489,000	349	2,417,000	122
2011-2012	16,230,000	370	1,340,000	84	32,432,000	370	5,586,000	152

## Annex 4

School-based After-school Learning and Support Programmes  
Community-based Projects  
Projects not approved from 2006-2007 to 2012-2013 School Years

<i>School year</i>	<i>Number of projects not approved</i>
2006-2007	39
2007-2008	2
2008-2009	9
2009-2010	4
2010-2011	5
2011-2012	16
2012-2013	1

**School-based After-school Learning and Support Programmes  
Community-based Projects from 2010/11 to 2012/13 School Years**

District	2010/11 (Note 1)			2011/12 (Note 1)			2012/13 (Note 1)		
	Number of NGOs (Note 1)	Total amount of grants (\$) (\$)	No. of participating students	Number of NGOs (Note 1)	Total amount of grants (\$) (\$)	No. of participating students	Number of NGOs (Note 1)	Total amount of grants (\$) (\$)	No. of participating students
Central & Western	7	\$840,600	340	5	\$2,700	220	--	\$840,100	340
Wan Chai	5	\$599,200	360	4	\$179,900	150	--	\$362,500	190
Eastern	18	\$2,301,600	1 550	16	\$120,700	1 770	--	\$3,773,900	1 920
Southern	8	\$2,578,700	1 660	6	\$201,300	1 530	--	\$2,515,000	1 490
Islands	6	\$2,445,500	2 050	5	\$398,700	2 710	--	\$2,735,600	2 250
Kowloon City	17	\$3,641,600	1 990	15	\$279,400	2 310	--	\$5,043,700	2 960
Kwun Tong	16	\$12,680,300	6 310	14	\$2,522,200	6 090	--	\$13,734,500	7 080
Sai Kung	16	\$2,435,700	1 940	15	\$625,800	2 140	--	\$3,704,800	2 490
Sham Shui Po	20	\$9,321,700	4 830	18	\$735,600	5 740	--	\$9,494,300	5 500
Wong Tai Sin	18	\$8,907,500	3 730	18	\$1,104,400	2 990	--	\$7,984,800	3 660
Yau Tsim Mong	16	\$4,540,000	2 200	15	\$467,100	2 650	--	\$4,471,200	2 860
North	12	\$6,975,300	3 120	10	\$225,400	5 360	--	\$8,380,900	4 640
Sha Tin	23	\$6,645,700	4 790	21	\$823,500	6 530	--	\$9,331,000	5 680
Kwai Tsing	15	\$8,898,500	6 910	13	\$595,500	8 690	--	\$12,087,100	6 830
Tuen Mun	24	\$11,534,700	7 470	21	\$1,707,100	8 210	--	\$10,699,400	7 800
Tai Po	10	\$2,514,200	1 760	10	\$154,100	1 820	--	\$4,674,200	2 530
Tsuen Wan	8	\$3,435,900	2 230	7	\$298,000	2 290	--	\$4,150,000	3 210
Yuen Long	24	\$21,399,700	15 360	20	\$2,294,200	16 900	--	\$17,757,900	16 970
<b>Total</b>	<b>263</b>	<b>\$11,696,400</b>	<b>68 600</b>	<b>233</b>	<b>\$12,735,600</b>	<b>78 100</b>	<b>--</b>	<b>\$121,740,900</b>	<b>78 400</b>

Note (1): For the 2010/11 to 2012/13 school years, the total numbers of participating NGOs are 157, 164 and 167 respectively. Since an NGO may serve various districts at the same time, the total number of NGOs by district may not tally with the total number.

Note (2): According to the 2010/11 audited accounts submitted by NGOs.

Note (3): Since 2011/12 audited accounts are yet to be finalised by NGOs concerned, relevant information of the 2011/12 school year is not available.

Note (4): The deadline for submission of the 2012/13 audited accounts by NGOs falls on 30 April 2014, and hence information of the 2012/13 school year is not available.

**Guidelines on Telecommunications Service Contracts**

22. **MR CHAN HAK-KAN** (in Chinese): *President, since July 2011, major fixed and mobile telecommunications service providers (providers) have implemented the Industry Code of Practice for Telecommunications Service Contracts (Code of Practice). The Code of Practice aims at providing guidelines on the drawing up of fair, balanced and reasonable service contracts between the telecommunications industry and consumers. However, the Consumer Council (CC) pointed out in December 2012 that upon termination of telecommunications service contracts by clients, some providers did not charge service fees for the month concerned on a pro rata basis according to the number of days between the contract end date and the last cut-off date for payment; instead, they charged service fees for the entire month. The CC considered this mode of charging unfair to consumers. In addition, some members of the public have relayed to me from time to time that they had had disputes with providers over termination of telecommunications service contracts, and they had sought help from organizations such as CC and the Communications Authority (CA), and so on, but the disputes remained unresolved in the end. In this connection, will the Government inform this Council:*

- (a) *whether the CA has any plan to discuss with the telecommunications industry to incorporate guidelines into the Code of Practice to stipulate how service fees for the period concerned upon termination of service contracts are to be calculated, so as to reduce disputes between providers and consumers;*
- (b) *whether the authorities concerned have reviewed, in collaboration with the telecommunications industry, the situation of "being easy to enter into contracts, but difficult to terminate them" since the implementation of the Code of Practice; if they have, of the details; if not, the reasons for that; and*
- (c) *given that quite a number of clients using telecommunications service have indicated to me that as ordinary people have difficulties in understanding the contents of telecommunications service bills, they can hardly confront providers with the aid of such bills in the event of disputes over termination of service contracts, whether the authorities will incorporate guidelines into the Code of Practice to stipulate that providers must present the contents of such bills in simple and comprehensible ways?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Chinese): President, the telecommunications industry has implemented since July 2011 the Industry Code of Practice for Telecommunications Service Contracts (Industry Code) formulated by the Communications Association of Hong Kong (CAHK), an industry organization, in collaboration with the major telecommunications service operators (operators) after active discussions between the Office of the Communications Authority (OFCA) and the industry. The Industry Code provides guidelines for the industry and consumers on drawing up fair, balanced and reasonable telecommunications service contracts in order to bring about improvements in aspects such as contract contents and arrangements for contract termination and renewal. The Industry Code has been implemented for more than two years, during which the OFCA has been monitoring closely its implementation and effectiveness. So far, no breach of the Industry Code is found.

The Administration's reply to the Member's question is as follows:

(a) and (b)

In formulating the Industry Code, the OFCA and the CAHK have made reference to the crux of the complaints on telecommunications service contracts lodged by consumers as well as the main causes for such disputes at that time. The disputes between telecommunications users and operators in respect of renewal and termination of service contracts are sometimes due to the cumbersome procedures which cause inconvenience to users.

In view of the above, regarding the arrangement of service provision and charges upon expiry of a term telecommunications service contract, the Industry Code requires that the contract must specify whether service will continue to be provided to the customer by the operator after the contract expires. If the operator will continue to provide service after expiry of the contract term, the charges which will be payable by the customer must be specified on the contract or the customer must be notified of the relevant charges not less than 30 days prior to the contract renewal date.

In addition, the Industry Code also provides specific protection to the consumers in the following aspects to ensure the simpler and more transparent procedures for contract renewal and termination:

- the contract must specify that the operator will notify customers of the impending expiry of the contract term, no more than 60 days and no less than 30 days before the contract expires;
- customers must not be obliged to give the operator more than one month of prior notice for contract termination;
- the arrangements for contract termination must not put customers to unreasonable inconvenience; and
- the operator shall make available reasonable means for customers to obtain (on any day) information in relation to, and to exercise the right of, termination.

To further enhance the protection of consumer interests, the OFCA has conducted a comprehensive analysis of the complaints received in the first 18 months of implementation of the Industry Code and reviewed the existing provisions of the Industry Code with the advice of the CC. In this connection, the OFCA has put forward to the CAHK in May this year some suggestions for improving the Industry Code. Regarding the "arrangements for contract termination", the OFCA suggests that operators should allow customers to download service termination forms from their websites. As to the "method to calculate the charge of the last bill", the OFCA's suggestions include requesting the operators to synchronise the payment cut-off date for the last bill with the contract termination date, to collect the payment for the last bill on a pro rata basis, and to explain to the customers or list on the contracts the method to calculate the charge for the month in which the service is terminated, and so on. As we understand, the suggestions are being discussed by the CAHK and the operators.

- (c) Pursuant to the Telecommunications Ordinance and the licence conditions, operators must ensure the fees charged on customers are accurate and have the responsibility to inform customers of the details of service charges. To help reduce billing disputes of telecommunications services as well as to improve the transparency of the chargeable items in the bills, the CA issued in October 2011 the Code of Practice in Relation to Billing Information and Payment Collection for Telecommunications Services which provides guidelines on the information to be included in bills and on the arrangements for payment collection, for compliance by operators on a voluntary basis. Seven local fixed network operators and five mobile network operators have pledged compliance with the Code of Practice, effective from 1 July 2012. The code of practice sets out the types of billing information which should be provided in the bills issued by operators to their customers, including billing account number, address, phone number(s) (if applicable), billing period, payment due date and method, charges for each type of service, and so on, so that customers can understand clearly about the correct charges incurred by using telecommunications services. Under the code of practice, customers may also request itemized billing information from the operators for verification of charges, while the operators may charge the customers reasonable administrative fees for the requested information.

## STATEMENTS

**PRESIDENT** (in Cantonese): Statement. The Chief Secretary for Administration will make a statement on the "Consultation Document on the Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016".

In accordance with Rule 28(2) of the Rules of Procedures, Members may put to the public officer making the Statement short and succinct questions, provided that they are relevant to the statement, but no debate may arise on the Statement.



**Consultation Document on the Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016**

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, today, the Hong Kong Special Administrative Region (HKSAR) Government publishes the "Consultation Document on the Methods for Selecting the Chief Executive in 2017 and for Forming the Legislative Council in 2016" (Consultation Document) to formally commence a five-month public consultation exercise. To show our respect and sincerity towards the Legislative Council, I take this very first opportunity to attend the Legislative Council to make the following Statement.

First of all, the design and establishment of any political structure have to have regard to the historical background of the relevant place, and with the constitutional basis and the characteristics of that place as the foundation. Therefore, when we discuss the methods for selecting the Chief Executive by universal suffrage in 2017 and for forming the Legislative Council in 2016, we have to consider the historical background of the establishment of the HKSAR, understand the unique constitutional status of the HKSAR, and comprehend the legal framework based on the Basic Law and the relevant Interpretation and Decisions of the Standing Committee of the National People's Congress (NPCSC).

After the signing of the Sino-British Joint Declaration, the State established the HKSAR pursuant to the Constitution of the People's Republic of China, and enacted the Basic Law after extensive consultations so as to prescribe the systems to be implemented in the HKSAR, in order to ensure the implementation of the basic policies of the State regarding Hong Kong. The overall objective is to maintain the long-term prosperity and stability of Hong Kong.

The Basic Law prescribes the various systems to be implemented in the HKSAR, including the methods for selecting the Chief Executive and for forming the Legislative Council. Article 45 and Article 68 of the Basic Law stipulate respectively that in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress, the ultimate aim is to achieve the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures, and the election of all the Members of the Legislative Council by universal suffrage.

As a matter of fact, since the establishment of the HKSAR, the political structure of Hong Kong has been developing towards the ultimate aim of universal suffrage in accordance with the Basic Law. As stipulated by the Basic Law, the office of the Chief Executive is filled by a Chinese citizen who is a permanent resident of the HKSAR, and there have since been four elections. The size of the Election Committee has also expanded from 400 members of the Selection Committee in 1996, gradually to 800 of the Election Committee in 2002 and 1 200 in 2012. As regards the Legislative Council, the number of seats returned by direct geographical constituency (GC) elections has gradually increased from 20 in 1998 to 35 in 2012. In addition, the five new functional constituency (FC) seats created in 2012 returned Members through election, on the basis of one-person-one-vote, by some 3.2 million registered voters who previously did not have a vote in the traditional FCs.

Since 2004, there have been extensive and specific discussions in the community of Hong Kong on how to amend the methods for selecting the Chief Executive and for forming the Legislative Council, and on issues relating to universal suffrage. According to the Basic Law and the 2004 NPCSC Interpretation, amendments to the method of selection/formation have to go through the "Five-step Process" according to the law:

- First Step — the Chief Executive to make a report to the NPCSC, so as to invite the NPCSC to decide whether it is necessary to amend the method of selection/formation;
- Second Step — the NPCSC to make a determination on whether any amendment to the method of selection/formation may be made;
- Third Step — if the NPCSC determines that amendments to the method of selection/formation may be made, the HKSAR Government to introduce to the Legislative Council a resolution on the amendments to the method for selecting the Chief Executive/method for forming the Legislative Council, to be passed by a two-thirds majority of all Legislative Council Members;
- Fourth Step — the Chief Executive to consent to the resolution as passed by the Legislative Council; and

Fifth Step — the Chief Executive to lodge the relevant bill to the NPCSC for approval or for the record.

Therefore, to successfully implement universal suffrage for the Chief Executive in 2017, the Central Authorities, the HKSAR Government, the Legislative Council, as well as the Hong Kong general public, all have their respective important roles to play.

In December 2007, the NPCSC adopted a Decision that clearly provides a timetable for universal suffrage in Hong Kong, that is, the election of the Chief Executive in the year 2017 may be implemented by the method of universal suffrage; and after the Chief Executive is selected by universal suffrage, the election of the Legislative Council may be implemented by the method of electing all the Members by universal suffrage.

This part of the historical account, from the enactment of the Basic Law stipulating the ultimate aim of universal suffrage and up to the Decision adopted by the NPCSC in 2007 providing for a timetable for universal suffrage, fully demonstrates the determination and commitment of the Central Authorities towards the implementation of universal suffrage in the HKSAR.

President, the 2007 NPCSC Decision is an important milestone in the constitutional development of Hong Kong; it is also an important step towards universal suffrage for Hong Kong. I can still recall that when I, as the then Secretary for Development, attended a briefing session at Government House together with colleagues, and heard Mr QIAO Xiaoyang, the then Deputy Secretary General of the NPCSC, saying that Hong Kong had her own timetable for universal suffrage, I was very excited and looked forward to its fruition. The year 2017 would be the first time that the Chief Executive of the HKSAR is to be returned by the method of universal suffrage ...

**MR WONG YUK-MAN** (in Cantonese): Lackey! Lackey of the CPC!

**PRESIDENT** (in Cantonese): Chief Secretary, please hold on for a moment. Mr WONG Yuk-man, if you yell in your seat again, I will order you to leave the Chamber immediately. Chief Secretary, please continue.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): The year 2017 would be the first time that the Chief Executive of the HKSAR is to be returned by the method of universal suffrage. The ultimate aim of universal suffrage for the Chief Executive, as stipulated in the Basic Law, is just round the corner.

In the course of attaining the ultimate aim of universal suffrage and in devising a model for implementing universal suffrage, we must ensure that the relevant selection/formation methods are consistent with the basic policies of the State regarding Hong Kong and the four key principles on constitutional development under the Basic Law are conformed to as follows:

- (i) meeting the interests of different sectors of society;
- (ii) facilitating the development of the capitalist economy;
- (iii) gradual and orderly progress; and
- (iv) appropriate to the actual situation in the HKSAR.

According to the Basic Law and the 2004 NPCSC Interpretation, the "Five-step Process" must be followed in amending the methods for selecting the Chief Executive and for forming the Legislative Council. They are the necessary constitutional procedure that we need to go through. In handling issues relating to constitutional development, the Central Authorities, the Chief Executive, the HKSAR Government, the Legislative Council, and indeed all sectors of the community must strictly follow the law.

The HKSAR Government is devoted and determined to successfully implement the universal suffrage for the Chief Executive in 2017. In his Manifesto and his first Policy Address after taking office, the Chief Executive had clearly pointed out that, acting strictly in accordance with the Basic Law and relevant Decisions of the NPCSC, he would strive to secure support from the Central Authorities and Members of the Legislative Council, and to forge consensus and take forward the accomplishment of the aim of universal suffrage. Since taking office, the Chief Executive and his team have been maintaining communications and dialogues with various sectors of the community to understand their positions and listen to their views, in order to lay a good foundation for the consultation on constitutional development.

In October this year, the Chief Executive announced the establishment of the Task Force on Constitutional Development led by me, to prepare for the launch of the public consultation on constitutional development. As the Chief Secretary for Administration, I am delighted to take up this important task to achieve our shared vision of universal suffrage with the people of Hong Kong. Today, the Government publishes the Consultation Document to formally commence the preparation for the constitutional procedure, as the first step to take forward the amendments of the method of selection/formation.

The period of consultation is a full five months, which is slightly longer than other public consultation exercises. Constitutional development is an important issue, as well as an issue of great concern of the entire community. Therefore, we deliberately reserve adequate time for the community to have full discussions with a view to forging consensus.

The Consultation Document sets out the background and principles of constitutional development in Hong Kong, as well as certain key issues relating to the method of selection/formation under the framework of the Basic Law and the relevant NPCSC Interpretation and Decisions to consult the public. The key issues relating to the method for selecting the Chief Executive include:

- (i) size and composition of the Nominating Committee (NC);
- (ii) electorate base of the NC;
- (iii) method for forming the NC;
- (iv) procedure for the NC to nominate Chief Executive candidates;
- (v) voting arrangements for electing the Chief Executive by universal suffrage;
- (vi) procedure for appointing the Chief Executive and the linkage with local legislation; and
- (vii) political affiliation of the Chief Executive.

The key issues relating to the method for forming the Legislative Council include:

- (i) number of seats and composition of the Legislative Council;
- (ii) composition and electorate base of FCs; and
- (iii) number of GCs and number of seats in each GC.

During the five-month period of public consultation, we welcome the people of Hong Kong and different sectors of the community to have focused discussions on issues relating to the method of selection/formation. We will extensively collect views and suggestions from members of the community, and after the consultation period, faithfully summarize and consolidate the views and suggestions so received, so as to assist the Chief Executive to make a report to the NPCSC to commence the constitutional procedures on the constitutional development of Hong Kong. During this period, the three members of the Task Force on Constitutional Development, as well as the entire team of Politically Appointed Officials and relevant Civil Service colleagues, will have exchange with and directly listen to views from people and organizations from different sectors of the community.

President, the public consultation launched today is the preparatory work to commence the "Five-step Process". To successfully implement universal suffrage for the Chief Executive, we have to complete all the steps in accordance with the legal procedure, of which the most crucial step is to secure the passage by a two-thirds majority of all the Members of the Legislative Council. In 2005, the proposal put forward by the then HKSAR Government, though supported by a majority of the public, did not ultimately obtain enough votes in the Legislative Council, resulting in an impasse in the constitutional development of Hong Kong. With a pragmatic and accommodating approach adopted by all of us, the 2010 constitutional development proposals were passed by more than two thirds of all Members of the Legislative Council, obtained the consent of the Chief Executive, and received the approval or record by the NPCSC respectively, and the "Five-step Process" was historically completed.

Today, we have formally stepped onto the straight road of welcoming universal suffrage. According to the 2007 NPCSC Decision, the selection of the Chief Executive by universal suffrage is a precondition for the election of all

Members of the Legislative Council by universal suffrage. We need all Members here, people across the political spectrum, as well as various sectors of the community to work together to forge consensus. I would like to take this opportunity to urge all Members here, all political parties, as well as the public at large, to adopt an accommodating, rational and pragmatic approach, as well as an inclusive attitude to seek common ground, and with the deepest sincerity to forge the biggest consensus, so that the universal suffrage for the Chief Executive in 2017, a common aspiration for all, could be implemented successfully.

President, Leaders of the State have repeatedly stressed that it is the sincere wish of the Central Authorities that Hong Kong could implement universal suffrage for the Chief Executive in 2017 in accordance with the Basic Law and Decisions of the NPCSC. This is also the constitutional responsibility of the HKSAR Government and a common aspiration of the people of Hong Kong. As to how it could be implemented on the basis of the Basic Law and the Decisions of the NPCSC, I hope that different sectors of the community and the public at large could give us your views.

We understand that constitutional development has always been a controversial and extremely complicated issue. We will not underestimate the difficulties of this task, nor will we evade them. As the Chief Executive has said the other day, the year 2017 will be a historic moment for Hong Kong to have a chance to achieve universal suffrage for the Chief Executive; faced with such a duty, any political figure, including himself, would do his utmost to carry out the task. The HKSAR Government would do all it can to carry out the consultation exercise and all the subsequent work.

With the concerted efforts by all of us, differences can be narrowed step by step and consensus forged bit by bit. Today, the HKSAR Government, through the publication of the Consultation Document and the commencement of the consultation exercise, is taking the first step. The future is in our hands. For the purpose of achieving universal suffrage and for the future of Hong Kong, I sincerely hope that people of Hong Kong, especially all Members here, could work together to forge consensus through rational and pragmatic discussions, and with an open and accommodating mind.

Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Members to put questions according to their order of pressing the "Request to speak" button. Members please be reminded that the questions they raise should be short and succinct and please do not make any comments.

**MS EMILY LAU** (in Cantonese): *President, it is pointed out in paragraph 22 of the Chief Secretary's Statement that "with the concerted efforts by all of us, differences can be narrowed step by step and consensus forged bit by bit". Are the Chief Secretary and the Administration aware that as years of opinions polls and elections show, an overwhelming majority of Hong Kong people long for universal suffrage, and the differences lie in the fact that we in the pro-democracy camp call for genuine universal suffrage with competition, while those who are royalist or pro-Beijing go for an election with screening? How can the differences be narrowed?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I thank Ms Emily LAU for the question. As I said in the Statement, the NPCSC has set down a timetable for universal suffrage, and we have stepped onto the straight road of successfully implementing universal suffrage in selecting the Chief Executive. To really achieve this, all parties need to adopt a tolerating, accommodating and sincere attitude throughout the consultation process to narrow the differences as far as possible and build up the consensus needed together.

However, I have to emphasize that universal suffrage has to be achieved according to the law. Hence, in the Consultation Document to be released, we will give a detailed account of the elements in Hong Kong's constitutional development as well as some principles concerning the design of the political structure. I believe that as long as we act on that legal basis with a tolerating attitude, the differences that I mentioned towards the end of the Statement can be narrowed, and a consensus in society can be forged.

**MR WONG KWOK-HING** (in Cantonese): *President, it is said in paragraph 19 of the Chief Secretary's Statement that today is a historic moment, and that we will be on the straight road of welcoming universal suffrage. President, may I ask the Chief Secretary that on our way on that straight road, how we will not walk on a curved road, take a return trip or head down a blind*



*alley? A very important point is how relevant stipulations of the Basic Law as well as the NPCSC Decisions in 2007 are abided by. Regarding the current constitutional basis, has the Administration planned or prepared to make it clear to all quarters of society, especially universities and secondary and primary schools, such that we can really walk on that straight road instead of heading down the wrong path?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I thank Mr WONG Kwok-hing for the question. In fact, as Mr WONG put it, to walk on the straight road of universal suffrage for selecting the Chief Executive, all parties need a common ground, which is described by some in the community as a legal basis, a legal framework or a track. Whatever the description, this should be the common ground needed in the current discussion on achieving universal suffrage for selecting the Chief Executive. Otherwise, as Mr WONG said, some unnecessary turnings may really be made in this course.

We have reserved sufficient time for the first-round consultation to make these very important legal bases clear. As for the various forms of consultation and promotion mentioned by Mr WONG, no effort will be spared by the task force formed by three of us, the whole team of political appointees as well as related civil servants.

**MR MICHAEL TIEN** (in Cantonese): *President, my question is very short. May I ask the Chief Secretary whether the Government will make some positive communication with the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) during the whole consultation period? If yes, how is communication or interference defined to ensure the implementation of "one country, two systems"?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Thank you, Mr TIEN. Communication is essential. In fact, on the important matter of achieving universal suffrage for selecting the Chief Executive, the Central Authorities have their constitutional duties and functions as well as power. Hence, it is reasonable for the LOCPG as an office set up by the Central Authorities in Hong Kong to engage in some kind of communication with us over the matter.

Nevertheless, Members should also be confident of themselves, because the most important challenge in completing this "Five-step Process" is securing the passage by a two-thirds majority of all the Members. And I have heard a number of Members say that their position in this respect is very often affected by popular aspirations. Hence, insofar as this consultation is concerned, the most important communication takes place among the Hong Kong public, and of course I also attach importance to the communication with Members.

**MR RONNY TONG** (in Cantonese): *President, my question is about the scope of consultation involving the method for forming this Council, as mentioned in paragraph 16 of the Chief Secretary's Statement. President, may I know if that scope refers to the ultimate method for the formation of this Council by universal suffrage, or that for 2016 only? If it refers to the latter, yet the separate voting system is not mentioned there. What I wish to know more clearly is, if it refers to the method for forming this Council in 2016, should the said system be included in (a), (b) or (c)? If not, why is it so?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I may clarify the first point that the key issues relating to the method for forming the Legislative Council, as mentioned in paragraph 16 of the Statement, refers to the one for 2016.

As I said in the Statement, as for the method for forming the Legislative Council in 2020, particularly if all the Members of the Council are to be elected by universal suffrage, a precondition is that universal suffrage is implemented for selecting the Chief Executive in 2017. Of course, what I mentioned in the Statement, be it the method for forming the Legislative Council or selecting the Chief Executive by universal suffrage, are all key issues. We will maintain an open attitude in the first-round consultation. Therefore, as for topics not included in my Statement, all parties (including Members) are free to express their views.

However, maybe I can disclose here that the voting procedure is not a key issue that we think should be dealt with in the Consultation Document.

**MR RONNY TONG** (in Cantonese): *Is it included or not?*

**PRESIDENT** (in Cantonese): Mr TONG, I can only allow Members to ask questions once. The Chief Secretary has made it clear in the Statement that the months-long consultation has just begun. There is ample time for Members to exchange ideas or debate among themselves or with the Government.

**MR TAM YIU-CHUNG** (in Cantonese): *President, the Chief Secretary emphasized in the Statement that universal suffrage is to be implemented in accordance with relevant stipulations of the Basic Law and the NPCSC Decisions in 2007. During the consultation, if there are views that are obviously contrary to the two, how will the Chief Secretary deal with them? Will she point out to the proponents that their views do not conform to the relevant legal basis, or will the views be included in the report?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I thank Mr TAM Yiu-chung for the question. President, even though we emphasize that the consultation will be carried out in the most open manner, we are duty-bound to point out that universal suffrage for selecting the Chief Executive in 2017 is to be implemented in accordance with the legal basis I mentioned earlier, as Mr TAM repeated just now.

Therefore, as we have said all along, during this five-month first-round consultation, we will neither put forward any specific proposal on our own nor make any specific comment on the specific proposals of Members, groups or various quarters of society. If we do so, it may give people an impression that we have adopted some preconceived position.

However, Mr TAM is right in pointing out that during the five-month consultation, if we note views which entirely run counter to the legal basis, I believe that we as members of the task force dedicated to the consultation would need to issue a reminder. Otherwise, the consultation as a whole may become not fully focused, which I fear will be a bit of waste of the five-month period arranged. Therefore, in response to Mr TAM's question, like what is set out in

the Consultation Document, we will highlight in due course the basis and relevant rationales in law of such a key issue.

**MS CYD HO** (in Cantonese): *President, drawing a conclusion on the past, from the British Hong Kong Government's handling of the call for direct elections in 1988 and the eventual implementation of direct elections for the then Legislative Council in 1991, to the consultation for the enactment of laws to implement Article 23 of the Basic Law, many Hong Kong people are of the view that the two Administrations like to distort ...*

**PRESIDENT** (in Cantonese): Please do not make any comments.

**MS CYD HO** (in Cantonese): *President, I am going to ask the question.*

**PRESIDENT** (in Cantonese): Please ask the question.

**MS CYD HO** (in Cantonese): *Many members of the public think that the Government's claim to "faithfully summarize and consolidate (the views and suggestions so received)" will actually turn out to be a distortion of public opinions and the results of consultation. May I ask the Chief Secretary whether she will tell the public expeditiously how public opinions will be gauged? For example, does "one person, one letter" count? How does a professional legal body compare with a children's choir in terms of the weight attached? Will the methodology for the questionnaire survey be announced as soon as possible, such that members of the public will not be misled in giving answers? These are all very important factors, because members of the public will persuade among themselves by all means ...*

**PRESIDENT** (in Cantonese): Ms HO, please sit down after asking the question.

**MS CYD HO** (in Cantonese): *... hoping that they will not be fooled by the Government again. Hence, may I ask the Chief Secretary ...*

**PRESIDENT** (in Cantonese): Ms HO, please sit down.

**MS CYD HO** (in Cantonese): ... *to tell us if she will immediately announce how public opinions will be gauged?*

**PRESIDENT** (in Cantonese): I would like to remind Members that they should not add comments to the questions they ask. It would be unfair of me not to allow the public officer to respond to the various comments Members make about the Government. Yet, as stipulated in the Rules of Procedure, no debate may arise on a public officer's Statement. Therefore, will Members please not voice their own views when asking a question. Chief Secretary, please reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I can tell Ms HO here that we as usual will faithfully summarize the views received after the completion of the consultation. Specifically, we will publish all the written submissions received subject to consent of those submitting them; and we will also publish the report written by the Government after summarizing the views. All work will be done in a highly transparent manner. I believe members of the public will be able to judge if the consultation is done well and if the views are faithfully summarized.

**MR SIN CHUNG-KAI** (in Cantonese): *A "Five-step Process" is mentioned in paragraph 16 of the Statement. The consultation concerned will last for five months. The Chief Secretary said earlier that the Government will summarize public opinions and make a report, and then the Chief Executive will submit the report to the NPCSC. I believe a specific proposal will be included in the report.*

*May I ask the Chief Secretary if there will be another round of formal consultation on the report or the proposal to be submitted by the Government to the NPCSC?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, maybe I should explain it once again. On the so-called First Step, the Chief

Executive will make a report to the NPCSC and invite the NPCSC to decide whether it is necessary to amend the method of selection/formation.

We will put the emphasis of the views received on whether it is necessary to amend the method of selection/formation. We will not put forward any specific proposal in the first-round consultation report. Nevertheless, Mr SIN's concern is about whether there will be another round of consultation before a specific proposal is put forward. There will be, as in the past in our experience. In our current estimate, the second-round consultation will be conducted prior to the commencement of the Third Step in the second half of 2014.

**DR KWOK KA-KI** (in Cantonese): *President, by 2017, Hong Kong people will have waited for the selection of the Chief Executive by universal suffrage for 20 years. As paragraph 18 of the Statement puts it, the proposals raised in 2005 and 2010 were neither what the people wanted nor in line with, as the Chief Secretary put it, public opinions. My question is on the Chief Secretary's earlier remark that no specific proposal will be put forward in the Consultation Document. Currently, public views are very clear, that is, more than 60% of the people call for a ...*

**PRESIDENT** (in Cantonese): Dr KWOK, please ask the question and do not make any comments.

**DR KWOK KA-KI** (in Cantonese): *President, I am coming to the question ... a broad channel for nomination, including civil nomination, is needed, and this is what 60% or so of the people are prepared to accept.*

*Chief Secretary, if you expect that you will not make a direct reply, then the consultation is nothing but procrastination, or namely a bogus consultation, instead of meeting public aspirations by expediting the pace of democratization, or expanding the electorate base for nomination for the attainment of genuine universal suffrage.*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, the aim of universal suffrage has been set, and the timetable for universal suffrage

has been presented in the NPCSC Decision in 2007. Now, what we need to endeavour is to collect more of the views from the public during the consultation period in order to forge a consensus in society, with a view to reaching the goal of universal suffrage on that straight road.

**PRESIDENT** (in Cantonese): Dr KWOK, the Chief Secretary has given a reply. Please sit down.

**MR KENNETH LEUNG** (in Cantonese): *President, of the seven areas of consultation set out in paragraph 15 of the Chief Secretary's Statement on the method for selecting the Chief Executive, our greatest concern is actually the fourth one regarding the procedure for the Nominating Committee to nominate Chief Executive candidates. While the remark made by the Chief Secretary just now sounds very appealing, that is, the views of the public at large will be consulted, but has she consulted the Central Authorities on the so-called "democratic procedures"? I believe the procedure for nominating Chief Executive candidates referred to by the Chief Secretary in paragraph 15(4) is no different from the "democratic procedures" prescribed in the Basic Law. Chief Secretary, have you consulted the Central Authorities on the interpretation of "democratic procedures"?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I thank Mr LEUNG for the question. I wonder if Mr LEUNG has paid attention to the visit to Hong Kong by Mr LI Fei, Deputy Secretary-General of the NPCSC, upon our invitation — certainly, he is also Chairman of the HKSAR Basic Law Committee under the NPCSC — and the script of one of the speeches delivered by him in a luncheon has been disseminated to the public. Mr LI Fei mentioned in that speech that "in the next public consultation" — the public consultation to be activated shortly — "Hong Kong society is required to conduct in-depth discussions on the specific arrangement for the universal suffrage system under the framework provided for by the Basic Law, including the democratic procedures for the nomination of Chief Executive candidates by the Nominating Committee.". Hence, my reply to Mr LEUNG's question is, the specific method of implementing the democratic procedures is precisely one of the major issues in this consultation.

**MR LEUNG CHE-CHEUNG** (in Cantonese): *President, after looking at the seven key issues proposed by the Chief Secretary in her Statement regarding the method of selecting the Chief Executive, I find that the Government has no intention to carry out consultation on the point raised by Deputy Secretary-General LI Fei during his visit to Hong Kong on 22 last month, that the Chief Executive must "love the country, love Hong Kong". May I ask the Chief Secretary why no consultation will be conducted on this point?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, that the office of the Chief Executive must be filled by someone who "loves the country, love Hong Kong" is certainly not the key issue relating to the method of selecting the Chief Executive. In fact, this expression is not found in the Consultation Document for a very simple reason: If we understand the constitutional responsibility of the Chief Executive, it is pretty obvious that the office of the Chief Executive must be filled by someone who "loves the country, loves Hong Kong" and will not confront the Central Authorities. In other words, this requirement is self-evident.

One of the relevant requirements in the Basic Law is that the Chief Executive has a double role to play, that is, be responsible to both the Hong Kong SAR and the Central People's Government. Being appointed by the Central People's Government, the Chief Executive is obliged to implement the Basic Law and perform the many specific duties under Article 48 of the Basic Law. If the Chief Executive should confront the Central Authorities and does not love the country and Hong Kong, I believe he can hardly perform these duties under the Basic Law.

**DR PRISCILLA LEUNG** (in Cantonese): *President, a timetable, efficiency and a consensus are vital to the implementation of universal suffrage for the selection of the Chief Executive in 2017. I can see that the Chief Secretary has in paragraph 15 of her Statement focused her discussion repeatedly on the Nominating Committee, which is mentioned in Article 45 of the Basic Law, too. Can the Chief Secretary answer clearly whether the model of nomination without going through the Nominating Committee, such as direct nomination by citizens, is a "twisted road", as opposed to the "straight road" leading to the selection of the Chief Executive by universal suffrage in accordance with the "one country, two systems" principle and the Basic Law?*



**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I have to stick to my previous remark that I will avoid making comments on specific proposals put forward by the community after the commencement of the consultation period. Hence, regarding Dr Priscilla LEUNG's question, I can only reiterate that Article 45 has stipulated very clearly that, in the light of the actual situation in the HKSAR and in accordance with the principle of gradual and orderly progress, the ultimate aim is to achieve the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. As stated by Chairman LI Fei in his reply to a question raised by the media during his visit to Hong Kong, only the Nominating Committee is authorized to nominate Chief Executive candidates under the Basic Law.

**MR IP KIN-YUEN** (in Cantonese): *President, just now, the Chief Secretary mentioned that the issue of separate voting is not included in the key issues relating to the method of forming the Legislative Council. I certainly know that separate voting and the forming method are not directly related, but the relationship between the two is obvious. For instance, we will face the issue of separate voting today ...*

**PRESIDENT** (in Cantonese): Mr IP, please raise your question and do not make any comments.

**MR IP KIN-YUEN** (in Cantonese): *My question is very simple: Why is separate voting not included in the key issues? If members of the public wish to express their views on separate voting, will the Government fully consider it during this consultation?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, as I said earlier, we will adopt the most open attitude in conducting the first round of consultation. I have suggested in my Statement what I think are key issues relating to the method for selection of the Chief Executive by universal suffrage and for forming the Legislative Council. We will absolutely not discourage the

public at large or Legislative Council Members from expressing their views on other issues, and we are duty-bound to summarize the views collected faithfully.

**MR CHARLES PETER MOK** (in Cantonese): *President, the Chief Secretary said that the consultation period, which lasts five months, is long enough, but many members of the public are concerned about the issue of FCs and hope that FCs can be abolished. My great concern is that there might not be sufficient time for discussions because people might focus on the discussions on issues related to the selection of the Chief Executive. May I ask the Chief Secretary whether all FCs will be abolished in 2016? If not, will consultation be conducted on the roadmap for the abolition of all FCs in 2020? Furthermore, I hope the Government will not "remove the goalposts" and adopt a delaying tactic.*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I have mentioned in reply just now that the method of forming the Legislative Council in 2020 is neither part of this consultation nor the work of the Government of this term, because the precondition for the election of all Legislative Council Members by universal suffrage in 2020 is precisely the focus of our work today, that is, to achieve the aim of selection of the Chief Executive by universal suffrage in 2017.

**MR ALBERT HO** (in Cantonese): *President, in paragraph 22 of her Statement, the Chief Secretary mentioned that "with the concerted efforts by all of us, differences can be narrowed step by step and consensus forged bit by bit". To my understanding, the consensus and differences mentioned by the Chief Secretary in paragraph 22 should be technicalities because a consensus has already been reached in the community on key principles, that is, electing the Chief Executive by genuine universal suffrage in 2017 through "one person, one vote" with no screening ...*

**PRESIDENT** (in Cantonese): Mr HO, please do not make any comments.

**MR ALBERT HO** (in Cantonese): ... *May I ask the Chief Secretary whether she agrees that there is already a consensus in the community, such that paragraph 22 is not talking about such a consensus but how genuine universal suffrage can be implemented technically?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I cannot fully subscribe to Mr HO's view, or else our task could have been a lot easier. Right, we have already got the goal of selecting the Chief Executive by universal suffrage, and there is a timetable for achieving this, too. This is extremely clear. However, in order to achieve this goal, it is still necessary for a consensus to be forged on some complicated legal issues. For instance, over the past few months, I have heard many proposals raised in the community. I do not consider these proposals simple technical issues — according to my knowledge, technical issues are actual operational issues encountered during the election process — they are issues related to legal basis as well as political issues. In other words, whether or not the proposed method can gain the support of the public at large and eventually be passed by a two-thirds majority of all the Members of the Legislative Council is more than a technical issue, I am afraid.

**DR KENNETH CHAN** (in Cantonese): *President, everyone vows to fight for universal suffrage, but the point is whether the selection of the Chief Executive in 2017 is by genuine or bogus universal suffrage. The Chief Secretary has mentioned several principles in paragraph 10 of her Statement, but the principle relating to Article 25 of the International Covenant on Civil and Political Rights of the United Nations is missing. Chief Secretary, my question is: Will this principle play a key role in the constitutional reform consultation to be commenced shortly? Can it be used as reference to gauge whether the universal suffrage is genuine or bogus?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, to my understanding, there can hardly be a uniform international standard for universal suffrage. The United Nations has once indicated that each jurisdiction may have to take into account its own social, political, economic and cultural background, as well as its prevailing circumstances, in designing its political system. Hence, in the second paragraph of my Statement, I chose to recapitulate

history and respect constitutional order together with Honourable Members. It is precisely because of this point that we firmly believe the design and formulation of any political system must have regard to the historical background of the relevant place (that is, Hong Kong) and be based on its constitutional basis and characteristics (that is, the SAR). I think that this should be the guiding principle of this constitutional reform exercise.

**MR IP KWOK-HIM** (in Cantonese): *President, I strongly agree with the Chief Secretary's remark in paragraph 19, that "we have formally stepped onto the straight road of welcoming universal suffrage". The implementation of universal suffrage for selection of the Chief Executive in 2017 is indeed the common aspiration of all Members of this Council. The Chief Secretary has also set out in paragraph 15 seven key issues relating to the method for selecting the Chief Executive. May I ask the Secretary to clarify and elaborate on what it is meant by the "procedure for appointing the Chief Executive and the linkage with local legislation"?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I thank Mr IP for the question. As Members are aware, it is clearly stipulated in both the Basic Law and the NPCSC Decision that the Chief Executive elect shall be appointed by the Central People's Government. As this is a substantive appointment, it means that the Central People's Government can refuse to appoint the Chief Executive elect. Hence, the sixth key issue seeks to explore these questions: Should the Central Authorities refuse to appoint the Chief Executive elect, is there a need for local legislation, mainly the Chief Executive Election Ordinance, to adopt some complementary measures? Is there a need to specify what will happen if the Chief Executive elect is still not appointed on 1 July? Is it necessary to make prior arrangements for a fresh election or other arrangements? These are the topics that need to be examined under the scope of this issue.

**MR FREDERICK FUNG** (in Cantonese): *President, we have had experience of holding discussions on constitutional reform on two occasions. The first discussion, which was held in 2005, was a failure. As for the second discussion, I believe no individual political party or politician will be willing to adopt the*

*model proposed at that time. May I ask the Chief Secretary, given that the consultation period lasts five months, whether it means that the possibility of conducting another round of consultation has been ruled out, and by this possibility I mean setting up a committee comprising representatives from the Central Authorities, representatives from the SAR Government, Legislative Council Members, representatives from different political parties and groupings, academics and other stakeholders, with a view to making joint efforts in looking for a consensus package which is similar to the approach adopted for the consultation conducted for the Basic Law? Does the present approach imply that this possibility has been ruled out?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, the SAR Government has the constitutional responsibility of achieving the aim of selecting the Chief Executive by universal suffrage, and this is also a key policy initiative of the current-term Government. Hence, under the leadership of the Chief Executive, this three-member Task Force on Constitutional Development will endeavour to conduct the consultation properly. It is precisely our hope to make efforts to pool the views expressed by different sectors of the community, various parties, various organizations and the public at large or the recommendations they wish to make. We hope to forge a consensus to enable Hong Kong to truly achieve the aim of selecting the Chief Executive by universal suffrage in 2017.

**MR LEUNG YIU-CHUNG** (in Cantonese): *President, the Chief Secretary has mentioned clearly in paragraph 15 of her Statement that the Chief Executive must be nominated by the NC. May I ask the Chief Secretary if this means that eligible voters who are not members of the NC have been ruled out, that is, they are not qualified to nominate the Chief Executive? If so, the Chief Secretary has in paragraph 10 mentioned that the ultimate aim of universal suffrage has to be achieved in accordance with the principle of gradual and orderly progress. May I ask the Chief Secretary whether this is the ultimate process, or there will be another process and stage?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): First of all, President, I must point out that that the selection of the Chief Executive by

universal suffrage in 2017 should undergo a process of nomination by a broadly representative NC in accordance with democratic procedures and then election by universal suffrage is clearly stated in Article 45 of the Basic Law, not by me. This is also an important legal basis guiding our consultation efforts this time around. Hence, the relevant task must be performed in accordance with the requirements of the Basic Law. Certainly, the democratic procedures to be followed by the relevant NC and even the broad representativeness of the NC involve many issues, and it is necessary for us to make joint efforts in examining and exploring them. Certainly, our ultimate aim is to select the Chief Executive by universal suffrage in 2017. The key issues set out in paragraph 15, or the relevant details of the NC, are the key issues of this first round of consultation.

**MR LEE CHEUK-YAN** (in Cantonese): *In her reply to Mr LEUNG Che-cheung's question, the Chief Secretary pointed out that the Consultation Document would not mention "love the country, love Hong Kong". But "love the country, love Hong Kong" and "do not confront the Central Government" is certainly a self-evident qualification of the Chief Executive candidates.*

*May I ask the Chief Secretary how could the self-evident qualification can be materialized? Is this consultation a consultation on universal suffrage or selection based on the self-evident qualification as she mentioned earlier? She said that we have stepped onto the straight road. But in my eyes, it is a steeplechase.*

*Will the Chief Secretary please clarify ...*

**PRESIDENT** (in Cantonese): Mr LEE, please do not make any comments.

**MR LEE CHEUK-YAN** (in Cantonese): *... is this a consultation on selection or a consultation on universal suffrage?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Regarding how the requirement as mentioned by Mr LEE can be fulfilled, I think it depends

on the independent judgment and choices made by members of the NC and every voter in the universal suffrage thereafter. I believe members of the NC and all Hong Kong people have the wisdom to make an appropriate decision.

**DR HELENA WONG** (in Cantonese): *President, I have a question for the Chief Secretary on the method for forming the Legislative Council as mentioned in paragraph 16. Regarding the composition of the FCs, will the public be consulted on whether the new Super District Council FC should be retained? In your mind, how could the representativeness of the FCs be broadened? Is there any idea in this regard?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): *President, we do not have any stance on these issues presently. We welcome Members and the general public to express their views on these issues.*

**MR ALAN LEONG** (in Cantonese): *President, I wish to raise a question regarding the "Five-step Process" as mentioned in paragraph 6 of the Statement. First, may I ask on which particular date the first step will be taken? The Chief Secretary said earlier that a consultation on the specific election methods and package will probably be commenced in the second half of 2014, that is, between the second step and the third step. How many months will this consultation last? When will the third step be commenced?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): *President, the first round of public consultation currently will continue up to 3 May next year. I believe this round of consultation will draw heated responses and the SAR Government will certainly receive a lot of opinions. Therefore, although Secretary Raymond TAM and his colleagues are renowned for their high efficiency, I believe he may need two months to faithfully report and summarize the views received so that the Chief Executive can lodge a report to the NPCSC. Based on past experience, as I said earlier, it is believed that the NPCSC will not require a very long time to make the second step.*

Therefore, we will be able to activate the second round of the public consultation in the second half of 2014 as preparation for the Government to submit a proposal to the Legislative Council in the third step. At present, we really cannot determine how many months the second round of consultation will take. But we certainly hope that the second round of consultation will be completed by the end of 2014 so that we can submit the proposal for the Legislative Council's passage by way of resolution. We all understand that we have to deal with local legislation further on the road.

**MR WU CHI-WAI** (in Cantonese): *President, in paragraph 15 of the Statement, it is mentioned that the public may express their views on the number of members, the composition and the electorate base of the NC. But I would like to ask a question about the number of members of the NC. Would it be bound by a pre-set ceiling during your consideration? In addition, as regards the composition, there is no room for discussion on some of the former political figures, for instance. Is it also bound by some normative restrictions such that this consultation is in fact not fully open?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I thank Mr WU for the question. President, as I have said, we will adopt the most open attitude in this consultation. But in some areas, we must be accountable to the public because some legal bases are involved. Regarding the composition of the NC, according to the Decision of the NPCSC in 2007, it is necessary to make reference to the broad representativeness of the Election Committee. Furthermore, according to Mr QIAO Xiaoyang's remark in a seminar earlier, the word "reference" connotes some degree of binding effect, but amendments can be made according to the actual situation. Recently, when Director LI Fei was asked a similar question during his visit to Hong Kong, he replied with the idiom "pretty close", which means that a certain degree of consistency or similarity should be attained in determining the composition of the NC. In any case, since it is a public consultation, we are happy to listen to the views of Members.

**MR WONG YUK-MAN** (in Cantonese): *It is pretty close. In other words, you can "call it a day", right? President, I would like to raise a point of order. Your Chinese is better. May I ask the word "步" in "五步曲" (Five-step*



*Process) should be "步", which means "step", or "部", which means part of a whole thing?*

**PRESIDENT** (in Cantonese): It is not a point of order. When we say "部曲", we usually use "部" meaning part of a whole thing. But I notice that quotation marks are used for "五步曲" as mentioned by the Chief Secretary. Chief Secretary, could you please elaborate?

**MR WONG YUK-MAN** (in Cantonese): *President, it is very nice of you to answer my question even though it is not a point of order.*

**PRESIDENT** (in Cantonese): Mr WONG, you must also be aware that it is a popular practice to particularly use quotation marks for some Chinese characters, thus altering its original proper usage in the language.

**MR WONG YUK-MAN** (in Cantonese): *President, rightly you have put it indeed. So, this is not a proper consultation as a wrong path has been taken. That is what I mean. Thank you, President.*

**PRESIDENT** (in Cantonese): Mr WONG, if you have raised your question, please sit down.

**MR WONG YUK-MAN** (in Cantonese): *I have not yet. Buddy, it is now my turn to raise a question. President, your Chinese is better than mine and that is why I asked you. You have now given an answer. It should be "部" meaning part of a whole thing. Hence, my question is ...*

**PRESIDENT** (in Cantonese): Please make your question short and precise.

**MR WONG YUK-MAN** (in Cantonese): *Buddy, you should not deprive me of my time to raise questions.*

*The interpretation of the Basic Law by the NPCSC in 2004 vetoed the demand for dual universal suffrage in 2007 and 2008. The NPCSC decision in 2007 vetoed dual universal suffrage in 2012. I feel not like wasting my time questioning you because you are a lackey who cannot ...*

**PRESIDENT** (in Cantonese): Mr WONG, please raise your question.

**MR WONG YUK-MAN** (in Cantonese): *I am about to, President. This is only the preamble. What will you do if the results of the consultation or the mainstream views suggest that Mr Albert HO should resign to trigger a referendum on civil nomination and universal suffrage for the Chief Executive election without screening, contrary to your Five-step Process or the so-called decision of the NPCSC or its interpretation of the Basic Law? Do you mean that you will oppose even though more than half of Hong Kong people demand that the Chief Executive be elected through civil nomination without screening and by "one person, one vote"?*

**PRESIDENT** (in Cantonese): Mr WONG, please sit down. Chief Secretary, please reply.

(Mr IP Kwok-him raised his hand in indication)

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, what is your point?

**MR IP KWOK-HIM** (in Cantonese): *Are the terms used by Mr WONG Yuk-man appropriate? Are there any insulting or impolite terms in his remarks?*

**PRESIDENT** (in Cantonese): The situation pointed out by Mr IP has occurred more than once in this Chamber. I would take this opportunity to remind Members that they should not use insulting or offensive terms in relation to other Members or public officers in their speeches. Members may also know that in the past, if a Member had acted in such a way and it was pointed out by other

Members, my usual practice was to suspend the meeting and request that Member to consider withdrawing the remarks.

Members may recall that the same situation happened in the Chief Executive's Question and Answer Session recently. I decided not to suspend the meeting because I think the meeting was broadcast live and the public expected us to make the best use of time to allow the public officer concerned to answer the questions rather than listening to our arguments on whether the Member concerned should withdraw the insulting terms. I hope Members will agree to this arrangement. Will the next Member who will ask question please do not use offensive and insulting language.

(Mr LEUNG Kwok-hung raise his hand in indication)

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, what is your point?

**MR LEUNG KWOK-HUNG** (in Cantonese): *Do you mean that to tell the truth is insulting the others?*

**PRESIDENT** (in Cantonese): Mr LEUNG, your remark is offensive *per se*. Please sit down.

**MR IP KWOK-HIM** (in Cantonese): *President, if Members continuously use insulting or offensive language, will the way you handle the situation not encourage such conduct?*

**PRESIDENT** (in Cantonese): Certainly Members can raise a point of order in this regard. At the Council meeting, I will make a ruling I deem appropriate. Mr WONG Yuk-man has asked a question just now. Chief Secretary, please reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President ...

(Mr WONG Kwok-hing stood up)

**MR WONG KWOK-HING** (in Cantonese): *President, point of order.*

**PRESIDENT** (in Cantonese): Chief Secretary, please hold on for a moment. Mr WONG, what is your point?

**MR WONG KWOK-HING** (in Cantonese): *President, as the Member who asked the question has left the Chamber of his own accord, is the Chief Secretary not required to answer the question?*

**PRESIDENT** (in Cantonese): Mr WONG, if you are familiar with the Rules of Procedure, you should know that there is no relationship between whether the public officer has to answer the question and whether the Member who asked the question is still in the Chamber. Chief Secretary, please reply.

**MR CHAN KAM-LAM** (in Cantonese): *President, point of order.*

*President, you said just now that you do not deal with the use of offensive language by Members in the hope that we can have sufficient time for discussion. But I think it would make Members get accustomed to such a bad practice. President, you should deal with the problem.*

**PRESIDENT** (in Cantonese): I have heard the Honourable Member's comment. Chief Secretary, please reply to the question put by a Member earlier.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Yes.

(Dr LAM Tai-fai stood up)

**PRESIDENT** (in Cantonese): Chief Secretary, please hold on. Dr LAM Tai-fai, what is your point?

**DR LAM TAI-FAI** (in Cantonese): *I think if a Member has asked the President for a ruling, you should make a ruling first.*

**PRESIDENT** (in Cantonese): I have made a decision already.

**DR LAM TAI-FAI** (in Cantonese): *Please make a ruling on whether the remark of Mr WONG Yuk-man at that moment is offensive.*

**PRESIDENT** (in Cantonese): Dr LAM, it is not the time for you to speak. Chief Secretary, please reply.

(Some Members spoke in their seats)

**PRESIDENT** (in Cantonese): Will Members please let the Chief Secretary reply to the question put by Mr WONG Yuk-man earlier.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Mr WONG Yuk-man's question is premised on the assumption that the public will adopt certain positions or views during the consultation in future. I do not intend to comment on his prediction. But I trust the general public is rational and pragmatic. The general public will agree that on this serious issue, we must be serious and act according to the law, instead of being fanciful and expressing some opinions which may run counter to the legal basis.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, I will not say anything that is insulting in relation to lackeys again ...*

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

**MR LEUNG KWOK-HUNG** (in Cantonese): *Chief Secretary, five GCs have held a de facto referendum. How do you know that this will not happen again in the future? If the people have expressed their views on the voting procedure, it is meaningless for you to believe that the people are rational and pragmatic because this has happened before. May I ask the Chief Secretary if this happens, which side she will support? Will she stand on the side of public opinion or the letter of the law?*

**PRESIDENT** (in Cantonese): Mr LEUNG, please sit down after asking your question. Secretary, please reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I believe Mr LEUNG's question is not within the scope of my Statement, so I do not have to make any elucidation.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, how come it does not fall within the scope of your Statement?*

**PRESIDENT** (in Cantonese): Mr LEUNG, please sit down. The Chief Secretary has answered your question.

**MR LEUNG KWOK-HUNG** (in Cantonese): *President, will she point out which part falls outside the scope of her Statement?*

**PRESIDENT** (in Cantonese): Mr LEUNG, as I have already pointed out, during the consultation in the next few months, you will have many opportunities to express your views or ask questions in this Council or on other occasions. Please sit down now.

**MR LEUNG KWOK-HUNG** (in Cantonese): *It is self-evident.*

**MR ALBERT CHAN** (in Cantonese): *President, every consultation on constitutional reform in the past finally turned out to be a bogus consultation to deceive the public ...*

**PRESIDENT** (in Cantonese): Mr CHAN, please do not give any comments.

**MR ALBERT CHAN** (in Cantonese): *President, the question I am going to ask is about "deceit". So I have to point out that Hong Kong people have been deceived for many times ...*

**PRESIDENT** (in Cantonese): Please ask your question immediately.

**MR ALBERT CHAN** (in Cantonese): *During his visit to Hong Kong, LI Fei laid down the framework or precondition for the model of constitutional reform. The upcoming consultation by the Government, to a certain extent, is totally controlled by the framework laid down by LI Fei. As the consultation by the Government seeks to gauge public opinions, the best way is actually to conduct a referendum ...*

**PRESIDENT** (in Cantonese): Mr CHAN, you are still giving comments. Please ask your question.

**MR ALBERT CHAN** (in Cantonese): *My question is about a referendum. Will the Government gauge public views through a referendum so that the public will not be deceived again? If a referendum is not adopted, does the Government want to wait for a "Jasmine Revolution" in Hong Kong before it will heed public opinion?*

**PRESIDENT** (in Cantonese): Mr CHAN, please sit down. Chief Secretary, please reply.

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I must first clarify that we invited Director LI Fei and Deputy Director ZHANG Rongshun to Hong Kong because they are legal experts well-versed in the Basic Law. Their elaboration on the Basic Law will offer certain help to the consultation that has been launched now. The purpose of Director LI Fei's visit to Hong Kong is not laying down the framework because the legal framework has been written in the Basic Law very clearly. So, Mr CHAN can rest assured that we are very sincere and very serious in conducting this consultation. Regarding the referendum mentioned by him, I think the public's response is very clear after Hong Kong has experienced the so-called referendum on the last occasion.

**MR CHAN CHI-CHUEN** (in Cantonese): *President, in his 17-page speech, LI Fei devoted nine lines to explaining how the number of Chief Executive candidates would be determined. But according to paragraph 15 in the Statement of Chief Secretary Carrie LAM today, there are seven key issues relating to the method for selecting the Chief Executive. Yet, there is no mention of the maximum number of Chief Executive candidates. May I ask the Chief Secretary whether the Government considers that the maximum number of candidates for the office of the Chief Executive is not the focus of the consultation and therefore it is not included in the Consultation Document or it is simply an omission? Does the SAR Government believe that there is no need to set a ceiling?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I have repeatedly pointed out that I have only presented some key issues in the Statement to facilitate Members' understanding of the consultation this time around. But regarding issues other than these key issues, we will also adopt an open, enlightened and receptive attitude in listening to Members' views. As Members can note in the Consultation Document, we have cited some views recently heard, including opinions on the number of Chief Executive candidates.

**MR YIU SI-WING** (in Cantonese): *President, regarding the selection of the Chief Executive by universal suffrage and method for forming the Legislative Council, will the Government communicate with foreign governments, including*



*the Governments of the United Kingdom and the United States, with a view to understanding their views?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): The answer is in the negative because the constitutional development and the design of the political system are the internal affairs of Hong Kong. This is also the source of the central constitutional power.

**MR JEFFREY LAM** (in Cantonese): *President, I quest for a genuine universal suffrage. I quest for a genuine universal suffrage fully in compliance with the framework of the Basic Law.*

*The Chief Secretary mentioned earlier that she would listen to public opinions in the next five months with a view to narrowing differences and forging a consensus. But in our society presently, many people still do not have much knowledge of the Basic Law and their proposals may not comply with the Basic Law ...*

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

**MR JEFFREY LAM** (in Cantonese): *May I ask the Chief Secretary whether she will spend some time to further explain the Basic Law to the public when listening to their views?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): I thank Mr LAM for his suggestion. We will undertake such a task. We have continuously promoted the people's understanding of the Basic Law since the reunification, and I am also Chairman of the Basic Law Promotion Steering Committee. But in my opinion, given that the focus this time around is placed on the discussion of the provisions on constitutional development in the Basic Law, it is worthy to engage in further discussions on the relevant provisions of the Basic Law with the community.

**MS STARRY LEE** (in Cantonese): *In her replies to Members' questions earlier, the Chief Secretary has pointed out that the implementation of universal suffrage is both a legal issue and political problem. In other words, it is necessary to garner public support and, as a more practical problem, secure the consent of two thirds of Legislative Council Members. What plans does the Chief Secretary have to enable Members of different political parties and groupings to join hands and discuss the issue in a rational manner? And what plans does the Chief Secretary have in relation to paying visits to the local communities in order to listen to the people's views during the consultation period in the next few months?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Like the SAR Government, Members also have their constitutional duty. I hope we can complete this Five-step Process together to achieve the selection of the Chief Executive by universal suffrage in 2017. We attach great importance to the views of Legislative Council Members. For this reason, I have taken this very first opportunity to come before the Legislative Council to make this Statement. Later on, we will meet with the media together with the Secretary for Justice and the Secretary for Constitutional and Mainland Affairs.

In the future, there will be continuous arrangements for exchanges with Members. First of all, I know that the Chairman of the Panel on Constitutional Affairs, Mr TAM Yiu-chung, may also make some special arrangements. We will also be willing to attend any meetings considered necessary by the Panel on Constitutional Affairs in order to complement Members' work. Today, I have written to the Chairman and Deputy Chairman of the House Committee in the hope that they can help co-ordinate four banquets in January. Why do I need help from the Chairman and Deputy Chairman of the House Committee in treating guests? I really hope that in these four banquets, we can have a positive and interactive platform for sincere and open exchanges. And Members will not be divided according to their political affiliations. So, I have informed the Chairman of House Committee, Mr Andrew LEUNG, of our expectation that each of these four banquets will be attended by Members of different parties and groupings to enable more interaction and communication between Members and us.

As for the general public, the promotion work will commence from today onwards. The usual means to be adopted for this purpose including APIs,

pamphlets and interaction with the public on the radio, television and other media is also being arranged. Insofar as this consultation is concerned, I have particularly put the focus on young people because the future of Hong Kong lies in our next generation. When the Chief Executive can be elected by universal suffrage in 2017, students who are attending junior secondary school today will probably be the voters who will elect the Chief Executive by "one person, one vote". So, we will endeavour to have more communication with the young people.

If the professional organizations or political parties represented by Legislative Council Members here would like to have more discussions and exchanges with us, we are also very glad to do so. The three of us have put this job first on our daily agenda. So, we will do our best to complement the work of Members.

**MR CHUNG KWOK-PAN** (in Cantonese): *President, in paragraph 22 of the Statement, the Chief Secretary pointed out that differences can be narrowed step by step and a consensus forged bit by bit. But the problem is, if a consensus cannot be forged, differences cannot be narrowed, and the methods for selecting the Chief Executive and forming the Legislative Council cannot be passed, thereby leaving the constitutional reform marching on the same spot, how would the SAR Government face such a situation?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): If the situation mentioned by Mr CHUNG did occur, I am afraid the consequences would not be borne by the Government alone. As the people have pinned high hopes on the selection of the Chief Executive by universal suffrage in 2017, if this cannot be realized in 2017, meaning that we are marking time, the whole society will have to pay the price and all citizens will feel very disappointed. There will even be adverse consequences on the stability of Hong Kong in the social, economic and political aspects.

So, because of this reason, I once again take this opportunity to urge all Legislative Council Members to undertake this task jointly with us during the consultation with the most inclusive and pragmatic attitude. I hope that, as I said in the last part of the Statement, differences can be narrowed and a consensus

can be forged so that the general public will not be greatly disappointed due to the failure in achieving the selection of the Chief Executive by universal suffrage in 2017.

**MR DENNIS KWOK** (in Cantonese): *When listening to the Chief Secretary's speech earlier, I seemed to have heard her say that it is necessary to make reference to the composition of the Election Committee concerning the composition of the NC. But according to the 2007 Decision of the SCNPC, the exact wording is "with reference to" only. I wonder whether she has made a mistake or she mentioned these words deliberately. So, I hope she can make a clarification on this point.*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, yes, Mr KWOK is right. According to the Decision in 2007, "The Nominating Committee may be formed with reference to the current provisions regarding the Election Committee in Annex I to the Hong Kong Basic Law." But officials of the Central Authorities, especially those who have a profound knowledge of the Basic Law, have indicated on various occasions that the words "with reference to" actually mean that it should be "broadly representative". And the words "broadly representative" are also found in Article 45 of the Basic Law. So, the NC should be broadly representative. Regarding the Election Committee, the words "broadly representative" are also adopted in Annex I. So, if the future NC is formed with reference to the composition of the Election Committee so that it can be broadly representative, it is more likely that compliance with the Basic Law is achieved.

**MR WONG KWOK-KIN** (in Cantonese): *President, in paragraph 15 of her Statement, the Chief Secretary has set out seven key principles or issues. If a consensus can be forged on these seven principles in the community, the Government can certainly formulate a preliminary package on the basis of this consensus before submitting it to the Legislative Council for voting. However, if views are so diverse that everybody insists on his own opinion and refuses to make compromise during the discussions, on what criteria will the Government make a decision so that a package can be formulated for submission to the Legislative Council?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I can only say that the Government will exert itself in achieving a broad consensus on this complex issue so that we can, at the third step, submit to the Legislative Council a constitutional reform package which has been broadly agreed to and will most likely secure the support of two thirds of Members for its consideration. But whether the package can be passed will entirely depend on the individual decisions of Legislative Council Members.

**DR LAM TAI-FAI** (in Cantonese): *President, regarding paragraph 15 of the statement, an Honourable colleague asked earlier why the Government did not launch a consultation on the definition of "love the country, love Hong Kong". In reply, the Chief Secretary said that she believed the NC and Hong Kong people would have the wisdom to judge what was meant by "love the country, love Hong Kong". But as Director QIAO Xiaoyang has reiterated a number of times, different people have different criteria on the definition of "love the country, love Hong Kong" and it is difficult to lay down the definition in law.*

*There may be a lot of politicians in the community who claim that they "love the country, love Hong Kong" in order to be qualified ...*

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

**DR LAM TAI-FAI** (in Cantonese): *... in fact they are "selling horse meat as beefsteak".*

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

**DR LAM TAI-FAI** (in Cantonese): *My question is very simple. If the Government does not launch an extensive and in-depth consultation among the 7 million people in respect of the definition and criteria of "love the country, love Hong Kong" in order to forge a consensus on the definition and criteria, how can the Government assure the Central Government that a person who truly "loves the country, loves Hong Kong" will be elected as the Chief Executive? My*

*reason is that the wisdom of the Central Government may not be the same as that of the Election Committee or the NC.*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, as I said earlier, "love the country, love Hong Kong" is in fact reflected in the spirit of the relevant provisions of the Basic Law. If Dr LAM Tai-fai wants to know the standard of "love the country", I can share it with him.

In fact, Mr DENG Xiaoping mentioned it in 1984. Director LI Fei, in his recent visit to Hong Kong, also repeated three conditions in answering a question. These three conditions are: First, respect our own nation; second, sincerely support the exercise or resumption of the sovereignty over Hong Kong by the Motherland; and third, do not do anything which can harm the prosperity and stability of Hong Kong.

These three conditions are not any profound theories. I believe the general public, including Legislative Council Members and members of the NC, will find it very easy to understand.

**MS CLAUDIA MO** (in Cantonese): *For such verbal exchanges, the most intelligent response is that there is no hypothetical answer for a hypothetical question, but ...*

**PRESIDENT** (in Cantonese): Ms MO, please ask your question.

**MS CLAUDIA MO** (in Cantonese): *... just now I saw that the Chief Secretary gave the cold shoulder to Mr WONG Yuk-man's question by making a very brief response. But the question raised by Mr CHUNG Kwok-pan is also highly hypothetical. He asked if differences existed and no consensus could be forged, what would the Chief Secretary do? I originally thought that she would not reply ...*

**PRESIDENT** (in Cantonese): Ms MO, please ask your question.

**MS CLAUDIA MO** (in Cantonese): ... *as she has adopted an attitude which differentiates Members in terms of affinity, how could she convince Hong Kong people that it is a straight road?*

**PRESIDENT** (in Cantonese): Ms MO, please do not give any comments and ask your question immediately.

**MS CLAUDIA MO** (in Cantonese): *My question is: How can the Chief Secretary convince Hong Kong people that this consultation is sincere instead of being one based on affinity differentiation; it is a genuinely "straight road" rather than a steeplechase?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): To my understanding, Mr CHUNG Kwok-pan's question aims at seeking my clarification in relation to paragraph 22 of my Statement. I can tell Ms MO that, as I said in response to a question by Ms Starry LEE, we are sincere and all political parties and groupings are treated equally in the hope that we can communicate with the 70 Members of the Legislative Council and establish mutual trust so that a consensus can be reached on such an important issue.

**MR CHAN KAM-LAM** (in Cantonese): *President, in paragraph 17 of her Statement, the Chief Secretary said that the Government will have exchanges with and directly listen to views from people and organizations from different sectors of the community. But in her reply to the question by Ms Starry LEE, the Chief Secretary said that four banquets would be held in the Legislative Council. May I ask the Chief Secretary the exchanges of views with Legislative Council Members will be held in the form of banquets? Will the Chief Secretary reconsider the way of communication other than throwing banquets?*

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, first of all, I have to clarify that the banquets will not be held in the Legislative Council. As I will be the host, the banquets will be held in the official residence of the Chief Secretary for Administration. This is not the only way to communicate with Members. But I wish that in a more relaxed atmosphere in

which everybody feels no pressure, communication among various political parties and groupings can be promoted. If Mr CHAN has a better idea about the way of communication, I prepared to listen to his views.

**PRESIDENT** (in Cantonese): End of question time.

## **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Members' motions. There are a total of four Members' motions for this meeting.

First Member's motion: The proposed resolution moved under the Interpretation and General Clauses Ordinance to amend the Country Parks (Designation) (Consolidation) (Amendment) Order 2013.

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

I now call upon Dr LAU Wong-fat to speak and move the motion.

## **PROPOSED RESOLUTION UNDER SECTION 34(2) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE**

**DR LAU WONG-FAT** (in Cantonese): I move that the motion, as printed on the Agenda, be passed.

President, I move that the motion standing in my name, with the support of the Subcommittee on Country Parks (Designation) (Consolidation) (Amendment) Order 2013 (the Amendment Order), be passed as set out on the Agenda. The motion seeks to exclude the enclave in Tai Long Sai Wan (Sai Wan) of Sai Kung East Country Park (SKECP) from the Amendment Order, that is, to not incorporate the relevant land into the boundary of country parks.



The resolution has the support of the Subcommittee. The Chairman of the Subcommittee, Ms Cyd HO, will report on the deliberations of the Subcommittee later.

Sites that are surrounded by or are adjacent to country parks, but are not part of country parks are named as country park enclaves. Some country park enclaves comprise both private and Government land. The enclave in Sai Wan is exactly one that comprises abundant private land.

I propose to repeal the relevant provisions of the Amendment Order on the grounds that the Amendment Order seeks to forcefully incorporate the private land of Sai Wan Village into the boundary of the country park — that is turning private farmland into part of the country park — but the Government has not made any reasonable compensation to the land owners concerned when rolling out such measure with serious adverse implications on private property rights. Such practice is utterly illegal, unreasonable and unconscionable.

I have to point out that the protection of private property rights is an essential cornerstone of a capitalist society. It is integral to building a harmonious society. The Basic Law of the Hong Kong Special Administrative Region (SAR) of the People's Republic of China has specific provisions to protect private property rights. According to Article 105, the Hong Kong SAR shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property. Hong Kong is a society where the rule of law prevails. The SAR Government is constitutionally bound to fulfil the requirements of the Basic Law, while the Legislative Council is duty-bound to urge the Government to act according to the law and rectify improper initiatives.

The Amendment Order, once implemented, will undoubtedly cause the land owners concerned to suffer huge financial losses. Altering the designation of relevant pieces of land from private farmland to country park land is tell-tale of the requisition and seizure of private property rights. According to the Country Parks Ordinance, the use of land within country parks is subject to strict restrictions. If land owners apply for building houses or engaging in other economic activities, their chance of being granted approval is almost zero. In the light of various restrictions, the value of relevant pieces of land will plunge

for sure. It will be hard for a land owner to find prospective buyers for his land. In fact, land owners will become owners of respective pieces of land in names only. As such, it is indeed not groundless for some aggrieved villagers to complain about *de facto* confiscation and seizure of their private properties. The Government declines to make any compensation arrangements on the pretext that the Amendment Order will not affect private property rights. Such a specious argument simply does not hold water.

President, contractual compliance is another cornerstone of a society where the rule of law prevails. I hereby would like to recap some history. To garner support from the New Territories villagers for the boundary demarcation of country parks, the then British Hong Kong Government had negotiated over and over again with the New Territories Heung Yee Kuk (HYK) and made a number of pledges in 1979. They included: (1) no private land would be incorporated into country parks; (2) no inhabited villages would be incorporated into country parks; (3) country parks had to be at least 300 feet away from the outermost village houses or land of a village; (4) if villagers moved back to any uninhabited villages that had been incorporated into country parks, the Government would exclude the villages from country parks; and (5) country parks would not affect the land rights of villagers and would bring about a series of measures that would enhance the quality of living of villagers living there.

I would like to stress one point. All of these pledges were not dream-talk uttered unconsciously by a certain responsible official. Rather, they were solemn pledges made by the authorities when they courted villagers' support for government measures. It was equivalent to signing a contract. Therefore, the existing Amendment Order not only has to do with the Government's integrity, it also underscores a more serious problem, that is, the authorities' ignorance of the spirit of rule of law by unilaterally ripping apart the contract signed with villagers.

At the inauguration ceremony of the 24th term of the Heung Yee Kuk in 1980, the then Governor, Sir Murray MacLEHOSE, highlighted some facts about the course of development of country parks (I quote): "The Government has officially set up country parks covering all highlands and remote areas in the New Territories. There has been pronounced improvement in the management of country parks and the measures taken to expand its recreational and leisure functions. This project would not have come to fruition without the assistance

and co-operation of the rural committees and the Heung Yee Kuk. I hereby express my gratitude to them. Also, I would like to thank them for their assistance and opinions in tackling the long-standing problem of hill fires."(End of quote) I have quoted Lord MacLEHOSE's remarks to illustrate the truth that villagers' contribution to the setting up of country parks cannot be denied.

The Amendment Order has touched a deep nerve among New Territories villagers and local residents. Apart from the Government's non-compliance with the law as mentioned just now, they feel that the way in which the authorities have handled the matter shows utterly no respect for the unique history and social background of the New Territories. There is no respect for villagers' traditional way of living and their lawful rights either. The authorities just forcibly impose the responsibility of conservation solely on their shoulders and have them pay the price for it. In fact, the Sai Kung Rural Committee, the Sai Kung District Council and the HYK have all voiced strong opposition to the authorities' practice. A villager of Sai Wan Village has also applied for judicial review, and the application has been granted by the Court. However, the Government is still hell-bent on it, underscoring its arrogance in ignoring the voice bridging officials and residents.

President, ecological and environmental conservation may not necessarily conflict with the protection of private property rights. With mutual understandings and compromises, a win-win arrangement can be reached. Villagers in the New Territories have always set great store by environmental protection. Over the years, the HYK has had discussions with a number of green groups on how to effectively carry out conservation work. It has also suggested that the Government should take the lead to set up an ecological conservation fund to provide fair and reasonable compensation to land owners affected by conservation works. However, the Government digs its heels in and rejects our suggestion.

It can be said that sagas like that of Sai Wan Village could well have been prevented if such a compensation mechanism had been established in the first place. I hope that the general public and Members can understand that villagers do not oppose conservation and the setting up of country parks. Instead, they oppose the way the Government "rides roughshod over" villagers to forcefully infringe on and seize their private property rights without making reasonable

compensations to the landowners concerned. On all counts, it is entirely logical for villagers to fight for and safeguard their legitimate interests in a society where the rule of law prevails. It should be understood and supported by people from all sectors of the community who champion for fairness, impartiality and justice.

President, the Government can actually implement a fair and reasonable conservation policy that is widely accepted by the people of Hong Kong. The problem obviously lies in the unwillingness rather than the inability to do so. The issue has developed to a point where the people's worries can hardly be dispelled. As we can see, the authorities have now taken a high-handed rather than high-minded approach, ignoring the considerations of legality, rationality and humanity. If the Government does not timely turn the policy on its head and make changes, it will definitely have profoundly adverse impacts on the creation of a harmonious society.

Lastly, I would like to thank the President for his ruling, which has allowed me to move this resolution. I also implore Members to support this resolution. Thank you.

**Dr LAU Wong-fat moved the following motion:**

"RESOLVED that the Country Parks (Designation) (Consolidation) (Amendment) Order 2013, published in the Gazette as Legal Notice No. 152 of 2013 and laid on the table of the Legislative Council on 16 October 2013, be amended as set out in the Schedule.

### **Schedule**

#### **Amendment to Country Parks (Designation) (Consolidation) (Amendment) Order 2013**

- 1. Section 3 amended (Schedule amended)**  
Section 3 —  
**Repeal subsection (2)."**

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr LAU Wong-fat be passed.

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, some country park enclaves are facing different development pressures. Developments in these enclaves, however, may not be compatible with the natural environment of the country parks, or may degrade the integrity and the aesthetic and landscape quality of the country parks as a whole.

In June 2010, unauthorized excavation works were detected on both private land and Government land of the country park enclave in Tai Long Sai Wan (Sai Wan), which triggered significant public concerns. The public in general expected the Government to better protect country park enclaves and safeguard them against any development that would undermine public enjoyment of the natural environment. In response to the public's demand, the Government conducted a review and pledged in 2011 to include 54 enclaves in country parks, or determine the proper use through statutory planning procedures.

The Sai Wan enclave is situated on the eastern coast of the Sai Kung peninsula. An area of about 16.55 hectares there is not included in the boundary of the Sai Kung East Country Park (SKECP), with a small portion of which (some 4.02 hectares) being private land that covers about 24.29% of the total area of the enclave, and the remaining large portion (75.71%) being Government land.

The private land in the Sai Wan enclave comprises mainly agricultural land (some 93% of the private land is old scheduled agricultural lots and can be used for farming-related purposes) with scattered village houses (some 7% of the private land is old scheduled building lots). It is endowed with rich natural resources and landscape components, including a natural and unpolluted beach, well-established woodland around the hillsides of the enclave, two natural streams flowing from the SKECP and embracing the enclave and with nice mangroves established at the lower stream courses. The combination of these natural and landscape components form an outstanding scenic quality in Sai Wan. It is also ranked as number one in a public campaign "Hong Kong Best Ten Scenic Sites" organized by the Friends of the Country Parks in 2006. The site boasts magnificent views and has a high aesthetic value which complements the

overall naturalness and the landscape beauty of the surrounding SKECP. In addition, the natural beauty of the site has high recreation potential for developing into a venue for hiking, camping and nature appreciation.

The enclave is considered as an integral part of the landscape of the SKECP. Designation of Sai Wan as part of the SKECP would improve the management of the area, enhance the overall conservation and landscape value of the area, and increase its enjoyment and amenities. To protect this site, the authorities, after conducting an assessment, suggested the incorporation of this piece of land into the boundary of country parks. The procedures of drawing up the boundary of the country park had also been initiated in accordance with the Country Parks Ordinance (CPO). They included publishing a notice in the Gazette, making a copy of the draft map available for inspection by the public from 26 October to 24 December 2012, and conducting hearings of objections by the Country and Marine Parks Board on 7 February and 8 February 2013. The draft map with a schedule of objections and representations was submitted to the Chief Executive in Council and approved on 7 May 2013.

During the period of 60 days of public inspection, the Country and Marine Parks Authority (the Authority) received nine objections against the draft map of the SKECP. However, the Authority also received more than 3 200 emails supporting the incorporation of Sai Wan into the SKECP.

By incorporating the Sai Wan enclave into the country park, it can prevent any development or other construction projects from taking place there which are not compatible with the natural environment of the country park, or may degrade the integrity and the aesthetic and landscape quality of the country park as a whole. Besides, in view of Sai Wan's ecological value and its significant natural beauty, we should allocate resources to improving its ecological environment and facilities, so as to make such places more suitable for public enjoyment while benefiting the local residents.

After incorporating the relevant land into the country park, the Government will deploy appropriate resources to better manage the related land lots as part of the SKECP. It will also improve the ancillary facilities there and seek to work together with villagers to improve the environment. Under the CPO, the Agriculture, Fisheries and Conservation Department (AFCD)'s allocation will

cover various areas, including strengthening of resources and manpower, so that the environment there will be afforded better protection.

"Proper improvement" generally refers to the building of some hardware facilities like paths, road signage, and public toilets. As for software support, it includes vegetation management and clearance of rubbish. Also, we hope to collaborate with villagers and non-profit-making organizations to implement projects like the existing Management Agreement Scheme introduced in places like Deep Bay (Mai Po areas) and Long Valley, and allocate more community resources through the Environment and Conservation Fund, so as to enhance the conservation work and environmental education there and achieve an all-win situation. In other words, strengthening the environmental conservation there will improve villagers' living environment and benefit the general public picnicking there.

For the aforesaid reasons, we believe the incorporation of Sai Wan into the boundary of the country park can provide the most suitable protection and management for the area.

We reiterate that it is absolutely not a case of "violently robbing villagers of their properties". To take Sai Wan as an example, the land there is now basically designated for small house development and agricultural purpose. After the enclave is incorporated into the country park, its existing land use will still be respected and protected. If local residents need to build some small houses, they can also make such applications after the enclave is incorporated into the country park.

Noting the concerns of local villagers, the AFCD particularly prepared a document named "Note on the Use or Development of Land within a Country Park Enclave after Inclusion into a Country Park" in June 2012 to better illustrate the focus of concern in assessing applications. Therefore, Members have to understand that the Government absolutely will not deprive villagers' of their existing property rights. We even hope that more social resources will be allocated for better conservation there in the long term. Also, we hope to make good use of its eco-tourism potential to realize the vision of promoting environmental protection while benefiting villagers and the general public.

I hope that Members will support the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 to incorporate Sai Wan and the other two enclaves into country parks for better protection.

President, I so submit and urge Members to support the Amendment Order, so that its original version submitted to the Legislative Council by the Government can come into effect on 30 December this year.

Thank you, President.

**MS CYD HO** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Country Parks (Designation) (Consolidation) (Amendment) Order 2013 (the Amendment Order), I would like to briefly report to the Legislative Council the deliberations of the Subcommittee. The Subcommittee has held four meetings to deliberate on the Amendment Order and receive views from deputations. A detailed report on the work of the Subcommittee was submitted to Members at the House Committee meeting on 22 November.

The Amendment Order seeks to incorporate three country park enclaves in Sai Kung into the boundary of country parks. As two of the enclaves are designated as Government land, their incorporation has not caused any controversy to arise. However, as the enclave in Tai Long Sai Wan (Sai Wan) involves private property rights, most members of the Subcommittee opposed the incorporation of Sai Wan into the country park and nominated Dr LAU Wong-fat to move a motion to exclude Sai Wan from the Amendment Order.

If an amendment is supported by most members of the Subcommittee, it will usually be proposed by the Chairman on behalf of the Subcommittee. However, my personal stance on this policy is supportive of incorporating Sai Wan into the country park. To avoid making this amendment less convincing because of my stance, I followed the provisions of the Handbooks for Chairmen of Committees to invite members who oppose the incorporation of Sai Wan into the country park to elect a representative from among themselves to propose repealing section 3(2) of the Amendment Order. Members all agreed to have Dr LAU Wong-fat represent them to move this amendment.



President, although I do not agree with the amendment proposed by Dr LAU Wong-fat, I will do my utmost to uphold Dr LAU Wong-fat's right of proposing an amendment to a subsidiary legislation. When deliberating the Country Parks (Designation) (Consolidation) (Amendment) Order 2010, the authorities opined that the Legislative Council had no power to amend an amended map and subsidiary legislation. They believed that the new country park map was signed by the Chief Executive in Council and deposited in the Land Registry after having gone through an established consultation procedure and having handled the opposing views in accordance with section 14 of the Country Park Ordinance (CPO). Therefore, the executive authorities pointed out that a further revised map had to go through the same procedures before it could be deposited in the Land Registry, or else even the Chief Executive had no power to make amendments. The executive authorities also opined that if the Chief Executive could not make amendments, nor could the legislature amend the Amendment Order and remove the map, as the executive authorities and the legislature are vested with equitable power in the legislative process.

In this regard, the Legislative Council had expressed strong opposition to that viewpoint as early as 2010. Under section 30(2) of the Interpretation and General Clauses Ordinance, the Legislative Council is empowered to amend any subsidiary legislation. Article 73(1) of the Basic Law also stipulates the Legislative Council's power to enact, amend or repeal laws. The executive authorities were of the view that if the map was repealed by the amendment proposed by the Legislative Council, the region concerned would have no map for land-use reference, since the original map had already been replaced and the new map had been repealed. The Legislative Council took a different view on this regard. We believed that if the new map was repealed, the original map could still be effective. Therefore, there would not be non-existence of land-use reference. More importantly, the power of the Legislative Council, including its power to amend subsidiary legislation, cannot be deprived of by an arbitrary interpretation of provisions made by the executive authorities.

In 2010, the authorities suggested excising five hectares of country park land to form part of the landfills in Tseung Kwan O and thus proposed to amend the map of the Tseung Kwan O Country Parks. The Legislative Council passed an amendment moved by the then Subcommittee with 52 votes to reject the new map proposed by the Government. The Legislative Council then set up a

subcommittee to study issues relating to the power of the Legislative Council to amend subsidiary legislation. One opinion suggested by the Subcommittee was that the executive authorities usurp the law-making power unless the Legislative Council clearly specifies in principal legislation the circumstances under which it will not exercise its power to amend legislation.

Let me once again call upon Members and political parties to safeguard the law-making power of the Legislative Council and not to easily hand it over. In fact, the Provisional Legislative Council had already handed over its law-making power under the United Nations Sanctions Ordinance in 1997. That could only be allowed once, but not another time. The former law professor at the University of Hong Kong, Yash GHAI, further opined that giving up its own law-making power in that way was in violation of the constitution, even though there was clear specification in the principal legislation. In the recent issue of setting a limit on the service life of heavy vehicles under the Air Pollution Control Ordinance, the authorities even specified in the exemption provisions their power to publish in the Gazette notices with legal effect which should not be deemed as subsidiary legislation. It was another attempt to deprive the Legislative Council of its law-vetting power. I hereby tell the Secretary in advance that I will definitely oppose such a practice. I have already told his team to better make amendments as soon as possible to avoid causing another constitutional controversy.

President, although I uphold Dr LAU Wong-fat's right of proposing an amendment to subsidiary legislation, I also want to protect the environment of country parks. Therefore, I oppose Dr LAU's amendment. After Mr LO Lin-shing's residential construction came to light in 2010, it was found that a large area of vegetation had been destroyed and the Government could do nothing to stop it with the prevailing law. At last, a prosecution could only be initiated against the construction workers based on a provision in the CPO, that heavy works vehicles could not pass through country parks as it might damage the environment.

Therefore, the former Chief Executive pledged in his policy address to refine the legislation and enhance the protection of country parks. As such, we have this Amendment Order today, seeking to incorporate some enclaves that

need protection into the boundary of country parks, so as to ban construction activities that damage the countryside with strict regulations.

However, rural residents are concerned that this may infringe on their private property rights and restrict land owners' right of land development. Let me respond to them here one by one as follows: private property rights will indeed not be affected as the property rights will still be held by the original land owners and the Amendment Order will not make any difference in this regard. Unlike urban redevelopment projects, their property rights will not be affected and they will not be forced to sell their land cheaply under the Lands Resumption Ordinance when both parties cannot stitch a deal within a certain period of time. Villagers' property rights are protected within the boundary of country parks. Such protection is actually greater than that in urban areas, as they will not be forced to sell their land at a low price. As regards the original land use, be it residential or agricultural land, they can still make applications to build small houses or change the use of land under the same vetting and approval procedures. Of course, there will be some differences. After these enclaves are incorporated into the boundary of country parks, if land owners plan to construct a building or need to carry out some construction works, they have to comply with the relevant ordinance and make sure it is compatible with the surrounding environment and landscape. Land owners thus think that this requirement will easily let the authorities reject their applications for change of land use based on some subjective and convenient reasons, and deny value appreciation of their land.

In both urban and rural areas, all land developments are subject to restrictions of surrounding environment in Hong Kong. It is not that rural land is particularly subject to lots of restrictions, while urban land is not subject to any. President, there are in fact more restrictions on land development in the urban area. An obvious example is the plot ratio restriction in the urban area. If the plot ratio is less than five, the relevant development project can only have a maximum of 32 floors built above structures like car park or shopping mall. Another example is that urban development projects cannot block views to ridgelines. As such, the height of buildings on Hong Kong Island is subject to restriction, as evident in the redevelopment project of North Point Estate. Besides, both commercial and residential development projects have to meet the requirements on traffic flow assessment of the surrounding areas before they can

be granted an approval. Hopewell Centre II is a good example, as its plot ratio had to be reduced and adjusted in some measure.

Therefore, let me tell villagers or rural residents that it is not particularly unfair to rural landowners when it comes to development restrictions. In both the urban or rural areas, development projects have to be compatible with the surrounding environment.

The HYK's representatives have indicated on various occasions that the imposition of restrictions on rural land development is unjust and in violation of the spirit of the rule of law. The HYK representatives have now used justice and the rule of law, two values much treasured by Hong Kong people, to defend themselves on this issue. I think I must make a clarification here. As I pointed out just now, new building development projects in both the rural and urban areas have to meet certain requirements regarding the surrounding environment in accordance with relevant ordinances. Therefore, the restrictions imposed on land development in areas incorporated into the boundary of country parks are not unique to rural land owners and there is thus no question of injustice.

Last time when Mr LO Lin-shing's residential construction was found to have damaged the countryside environment, what could the authorities do eventually? Could they hold the land owner criminally liable? It transpired that the authorities could not do so. The landowner was not criminally liable for such action. As I mentioned just now, the Government could only invoke the provision of CPO which bans heavy vehicles from entering country parks without permission and prosecute a number of construction workers. They were each fined \$1,000 or several hundred dollars eventually. It would be even unjust if the construction workers paid the fines themselves. Nor was there any justice and the rule of law if someone paid the fines for them and the person actually planning the construction works was not held criminally liable.

Before proposing this Amendment Order, the authorities had actually conducted consultation. As the Secretary said just now, the authorities received a lot of positive feedbacks. Although there were also negative feedbacks, the majority of opinions supported the proposal. The revised country park map was really made in accordance with the legal procedures, and thus it was in compliance with the procedures of legislative amendment. However, the

Government later said that we have no power to amend the subsidiary legislation and it is unconstitutional for us to do. I would of course "fight to the hilt" to protest against it.

However, I hope that the amendment proposed by Dr LAU Wong-fat will not be passed. In that case, the executive authorities do not have to seek judicial review regarding the Legislative Council's power to amend subsidiary legislation. Yet, I have to seriously tell and warn the executive authorities that we will definitely "fight to the hilt" if they attempt to deprive the legislature of its power to amend and make laws.

President, tightening the regulations on rural land development, after all, can prevent land owners from damaging the countryside environment for the sake of gaining more benefits. However, their original land rights will remain intact.

I myself will not support the amendment proposed by Dr LAU Wong-fat, as I think that the environment of Sai Wan should be afforded better protection. Also, I think the authorities should take up its due responsibilities of providing infrastructure facilities such as water and electricity supplies, and road facilities, for villagers in the remote areas. They should also discuss with villagers to provide some green tourism facilities, so that villagers can live there and make a living on eco-tourism. In fact, when the CPO was enacted after it had gone through the three Readings in 1976, Mr Hilton CHEONG-LEEN already suggested the setting up of youth hostels or bed-and-breakfast lodges in country parks. Unfortunately, this proposal so far has not been materialized. I request the authorities to follow up on it as soon as possible, so that members of the public can have the opportunity to enjoy the night scene of Sai Wan. Thank you, President.

**MR VINCENT FANG** (in Cantonese): President, the Government has proposed the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 (the Amendment Order) with the aim of incorporating into the boundary of country parks three enclaves in Tai Long Sai Wan (Sai Wan), Kam Shan and Yuen Tun. Among them, only the incorporation of the Sai Wan enclave is most controversial as it involves private land there but not the other two enclaves.

As regards the incorporation of Sai Wan into the Sai Kung East Country Park (SKECP), the Liberal Party recently got in touch with both the supporters and opponents to hear their opinions. Some members of the public even expressed their views via the "one-person-one-email" campaign. We have paid attention to and considered that as well. We understand that Sai Wan is endowed with magnificent natural beauty and an ideal place for picnicking and hiking. Therefore, quite a number of people and green organizations have long wished that this place be incorporated into the country park as early as possible on the ground of conservation to protect its natural environment from any damages in future. However, while striving for conservation, we think that the Government should also respect the legitimate rights of villagers and private property owners there, and cannot ride roughshod over the people.

According to government information, Sai Wan covers an area of about 17 hectares of which 24% is private land and the remaining 76% is Government land. The Government can, of course, deal with the Government land as it wishes. However, private land is, after all, a kind of private property. The Government should properly consult and negotiate with the relevant stakeholders in advance. It cannot arbitrarily alter or seize the legitimate rights of private property owners at will without making any compensations.

Besides, the stakeholders there, including the HYK, residents of Sai Wan Village, the Sai Kung Rural Committee and members of the Sai Kung District Council, have all voiced strong opposition. They think that the Government, in doing so, is robbing villagers of their properties, infringing on their traditional and land rights, and restricting the development potential of the relevant area. The Liberal Party thinks that the Government should not ignore public opinions which overwhelmingly oppose the action and continue digging in its heels to press ahead with the Amendment Order.

The Government has repeatedly given them assurances, indicating that nobody's private property rights will be seized after incorporating the private land into the country park, and that villagers need to get approval for building houses, both now and then, in accordance with largely identical vetting and approval criteria. However, such remarks obviously could not convince the villagers. Why? Because such approved cases have been far and few between over the past decades. Government officials can say whatever they find expedient. In

the past, government departments very often "said one thing but did quite another" or "moved the goal posts". It is worrying that the Government may play the same old trick again after the Amendment Order has come into effect. It may then raise the vetting and approval criteria for house-building applications. Therefore, villagers' worries are understandable and may probably become reality.

President, Hong Kong is a society where the rule of law prevails. The spirit of the rule of law is a core value treasured by Hong Kong people. Members of the public, of course, have to abide by the law. The Government also has to govern according to law. According to the information provided by the HYK — and as mentioned by Dr LAU Wong-fat just now — the British Hong Kong Government pledged in as early as the 1970s that it would not incorporate private land into country parks and would keep a distance between the boundary of country parks and private land. The provisions of Article 6, 105 and 40 of the Basic Law also specify "to protect the right of private ownership of property in accordance with law", and "the lawful traditional rights and interests of the indigenous inhabitants of the 'New Territories' shall be protected by the Hong Kong Special Administrative Region". If the Government believes that it has the power to incorporate landowners' private land into the country park without gaining their consent and making any compensations, it will surely face challenges in court. The best way to resolve such legal disputes is to take it to court.

President, the Liberal Party met a task force of the HYK in early November. The task force is named "Opposing the Incorporation of Sai Wan Village into the Sai Kung East Country Park". Its representatives told us that the residents of Sai Wan Village had already applied for judicial review on 15 October and were waiting for the hearing. They thought that the Government should postpone tabling the Amendment Order before the Legislative Council and discuss it again after the Court had made its ruling. In that case, it can avoid the scenario of the Amendment Order being overturned by the Court's ruling. It could also allow the Legislative Council to get further information and engage in more in-depth and comprehensive discussions on the issue.

The Liberal Party basically agrees with their views. It also queried why the Government, after learning that some villagers sought judicial review, had yet

to make a detailed response thoroughly explaining the possible implications. Therefore, the Liberal Party then immediately wrote to the Secretary for the Environment, Mr WONG kam-sing, to make it clear that the Liberal Party hoped the Government would expeditiously explain its position and consider temporarily shelving the Amendment Order as the case was then in the process of judicial review, so as to address villagers' concerns and demands. It would be consistent with the way the Government handled the issue of incineration plant construction where it temporarily shelved the plan because of a judicial review challenge.

Furthermore, we think that the Government should reconsider other feasible options in view of such strong opposing voices. For example, it can consider making proper compensations instead of "forcefully passing it into law". By doing so, it can achieve conservation and respect villagers' rights and interests, while maintaining harmony in society.

Actually, as Ms Cyd HO mentioned just now, although Sai Wan has not been incorporated into the country park, there are indeed other regulations that can ban any construction works to take place there. For example, the Government stopped the excavation works there in 2010. Therefore, it is not so urgent for the Government to not wait for the Court's ruling and request the Amendment Order to be made effective immediately.

However, the Government mentioned in its reply to the Liberal Party's letter that all subsidiary legislation must be laid on the table of the Legislative Council after being published in the Gazette. As the statutory procedure has been initiated, the Government cannot temporarily shelve the Amendment Order at the present stage.

We think that such a response given by the Government is not acceptable. Regardless whether it is an excuse, the Liberal Party thinks that it is even more necessary for us to support the "repeal" motion of Dr LAU Wong-fat, as the Government itself cannot temporarily shelve the Amendment Order now. By doing so, the Government and the Legislative Council can wait until the legal dispute is completely resolved in court and discuss how best to properly handle the issue in consideration of the ruling.



As a matter of fact, the Government goes against its past practice and forcefully pushes ahead with the Order, even it is challenged in court on the proposal being a violation of the Basic Law. That is really not a law-abiding and reasonable government should do. Therefore, the Liberal Party will support Dr LAU Wong-fat's motion today.

I so submit. Thank you, President.

**MR TOMMY CHEUNG** (in Cantonese): President, I feel very disappointed with the way the Government handled this issue. In fact, those who oppose the proposal, including the HYK and the 27 rural committees, have openly expressed time and again their firm position of strongly opposing the forceful incorporation of Tai Long Sai Wan (Sai Wan) into the boundary of the country park during the consultation conducted by the authorities. They have also made a clear demand to urge the Executive Council to appreciate public sentiments and withdraw the proposal, so that the relevant Policy Bureaux and affected persons can negotiate a way to tackle the problem by means of town planning, among others, and come up with an all-win and feasible solution. Seen in this light, the opponents have been fighting for their cause in a reasonable and caring manner. As a matter of fact, the best way to handle such a controversial issue is to temporarily withdraw it and seek a consensus solution.

However, the authorities, after learning that there will be enough votes, have turned a deaf ear to the opponents and continued to table the proposal at the Legislative Council for passage into law. They are really riding roughshod over the people. The previous consultation has suddenly become a show, as all are nothing but black-box operation. How can they win the hearts and minds of people from all walks of life with such a practice?

Sai Wan is really a nice place with magnificent views. It is popular among hikers. However, it is hardly justifiable for the Government to appease the public while ignoring the private property rights of New Territories indigenous residents.

Now, they have even cast the affected indigenous villagers as unkind by leading the general public to believe that they oppose conservation out of

personal interest. As mentioned in the advertisement placed by the HYK in major newspapers today, such practice is "pitting the urban residents against rural villagers and creating a social split".

The legitimate traditional rights of New Territories indigenous residents have long been protected by the Hong Kong Special Administrative Region. Even in the early years of the colonial era, the then Government also promised that it would not incorporate private land into country parks and would keep a distance between the boundary of country parks and private land. We have to understand that the indigenous residents' small house concessionary rights will definitely be restricted once the land near their villages is incorporated into country parks. Besides, as buildings in country parks must not block the view of the surrounding environment, villagers will surely stand a sharply lower or even zero chance of building houses there. As far as I know, there seemed to have only two successful applications for building small houses on country park land in the past. How can the indigenous residents possibly not be worried?

The authorities are responsible for protecting private property rights. They are now forcefully resuming the land for conservation purpose and refuse to make reasonable compensations to the affected indigenous residents, ignoring the legitimate rights of rural residents and private land owners. How is it different from taking the lead to trample on property rights? If the authorities resume land for road construction, they will make monetary compensation to the affected people. Now, they incorporate land into country parks yet make no monetary compensation. Why have they completely not considered making compensation from the Environment and Conservation Fund?

I support preserving natural landscape with ecological value. However, it cannot be taken as a reason to justify wantonly resuming private land and depriving a handful of people of their rights. If this situation persists, the majority will always win and the community will only become more and more unjust and unfair. Is this the spirit of democracy we champion for?

President, I think this is a typical case of "tyranny of the majority". Let me translate it as "多數票極權" in Chinese for the time being. Maybe the President can offer his valuable suggestion on the Chinese translation for our future reference. President, I support repealing the relevant provisions of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013. I so submit.

**MR WU CHI-WAI** (in Cantonese): President, since the controversy surrounding Tai Long Sai Wan (Sai Wan) began with the scrutiny of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013, we can hear that a lot of the controversy both inside and outside the legislature centered around how the incorporation of enclaves into country parks would affect the rights of indigenous villagers. I will try to look at what we often refer to as the rights of indigenous villagers really mean.

First, some people hold that the incorporation of enclaves into country parks would affect the rights of re-inhabitation or the resumption of farming in villages. I believe such a claim is untenable because according to section 10 of the Country Parks Ordinance (CPO), if a piece of land falls within a draft map, that is, even though a boundary map has been prepared, prior to the date of publication in the Gazette of a notice, so long as the requirements of the relevant land lease conditions are complied with, the Country and Marine Parks Authority (the Authority) would not refuse the carrying out of works for the maintenance of any building or the use of any land for the purpose of agriculture.

After a site has been formally included in a country park, as in the case of Sai Wan now, the Authority will make recommendations on whether or not to approve the relevant development to the Lands Department (LandsD) having regard to the effects of the proposed development on the country park concerned, such as nature conservation, landscape, and so on, according to section 16 of the CPO. In the Note on the Use or Development of Land within a Country Park Enclave after Inclusion into a Country Park, the Government has made it clear that generally speaking, the Authority in general may allow those proposed use or development that are compatible with the purposes of the CPO. The Authority may, for example, allow those minor public and engineering works the development of which is essential to villages and related to the well-being of the rural community. More importantly, according to the conditions of the Block Government Lease, I cannot see any reason for the LandsD to disallow villagers to carry out farming on land designated as agricultural land. This situation will not change despite the incorporation of the site into a country park. Even if irrigation channels have to be built for the purpose of farming, the Note specifies that the Authority will not refuse the same.

I wish to add one point. Section 19 of the CPO also specifies that if the Authority refuses approval for the carrying out of new development on any land under section 10 or modification to the proposed use of that land in accordance with section 16(2), the owner of the land shall have the right to claim compensation and the value of land shall be such value as would be assessed under the Lands Resumption Ordinance (Cap. 124). In other words, if the Government really wants to resume this kind of agricultural land or rejects any development arrangements proposed by relevant villagers in accordance with the provisions of the CPO, the Government has the responsibility to offer compensation and the criteria for compensation will make reference to the arrangements under the Lands Resumption Ordinance. Since no restrictions can be found in the legislation, the policy or the land lease conditions, it is up to villagers to resume farming or repair their village houses as there is no restriction whatsoever in the legislation and they can continue to use the land according to the uses specified in the original Block Crown Lease.

This morning, the press pointed out that indigenous villagers think if they are allowed to build guesthouses to ensure their livelihood, they can consider accepting the arrangement of incorporation into the country park concerned. In fact, if Members have ever paid any attention, they would find that section 25 of the CPO already empowers the Government to exclude by order in the Gazette some areas from a country park, including any area in respect of which a lease is issued for the purposes of recreation or tourism, so in the CPO, there is protection for the villagers' demand.

In the radio programme yesterday, I heard a Member say that the applications by some Sai Wan villagers to build small houses on disused agricultural land had been rejected by the LandsD, so villagers believe that after the incorporation of Sai Wan into the country park concerned, it would be even more difficult for this kind of applications to gain approval. My response to this comment is that the rejection of those applications is not related to whether or not Sai Wan would become part of the country park concerned, rather, it is related to the existing small house policy and the Block Crown Lease regulating the land.

According to the Block Crown Lease, the land within a demarcation district would be divided into land for houses and land for agriculture. If one wants to erect structures on land specified as agricultural land in the Block Crown Lease, it

is necessary to make an application to the LandsD. Generally speaking, the LandsD would not approve the construction of residential buildings on agricultural land with the exception of buildings for agricultural purposes as a matter of course.

In addition, according to the requirements of the small house policy, indigenous villagers can build small houses on privately-owned farmland but such small houses cannot be built arbitrarily, rather, they have to meet the following conditions: The applicant has not previously applied for or received any small house grant; the site under application lies within a Village Type Development zone and the environs or the village extension area of a recognized village, that is, within the village boundary, and if villagers do not have any land, they can be granted land within the village boundary by paying a concessionary premium to the Government.

Obviously, whether a case would be rejected or not depends on whether or not an applicant can fulfil the requirements under the small house policy, for example, whether or not the agricultural land actually lies outside the environs of a village, or if an applicant lives overseas but wants to apply for Government land to build a house, yet he cannot prove his intention of returning to the rural area for settlement there, since court cases have affirmed that such applications cannot fulfil the requirements of the policy. For this reason, they are deprived of their right to build houses.

Furthermore, whether or not such cases of house construction are approved involves a deeply controversial issue: Do we have to change the existing small house policy, for example, by extending village boundaries, relaxing the restrictions on the construction of small houses on agricultural land outside village boundaries or changing the land designated as agricultural land in Block Crown Leases to land for village-type development under a statutory plan?

Before discussing this issue, let me review the aim and original intent of the small house policy with Members. According to the papers submitted by the Government to the Executive Council in 1972, the aim of the small house policy is to allow an indigenous villager to apply for permission to erect for himself during his lifetime a small house on a suitable site within his own village, on the condition that he can prove he does not have sufficient accommodation. This is also the result of a compromise reached between the City and New Territories Administration and the HYK.

Of course, Honourable colleagues will also have the opportunity to further expound on the history and evolution of the small house policy in the context of this motion or the ensuing motion debate sponsored by me. However, the main point that I wish to raise is that the aim of the small house policy is to allow indigenous villagers who do not have sufficient accommodation to live and settle in their villages. At that time, the Government also made it clear that if any abuse was found, the Government would terminate the whole policy at any time.

Indigenous villagers believe that their housing needs have not been addressed. However, I wish to point out that in 2010, Mr Simon LO bought 77 lots at Sai Wan — that is, the lots marked in orange on this map — and they represent all the village land to the north of Sai Wan village. If there is really such a housing need, why do they not make applications to use the private agricultural land within the village boundary to build houses? What are the justifications for requesting the Government to relax the restrictions on the construction of houses on the agricultural land outside the village boundary? Does the Government have the duty to allow villagers to sell their own land, then give them additional privileges to build houses? From this angle, we can see that this is an important aspect of the huge financial loss mentioned by some Honourable colleagues frequently.

If the future development rights do not refer to the resumption of farming, re-inhabitation or the construction of small houses for self-occupation, what are the other rights? I believe it is to sell the land owned by indigenous villagers for profit. To my understanding, after the incorporation of the land into the country park concerned, the Government would not prohibit indigenous villagers from selling or transferring the ownership of their land within the boundary of the country park concerned. In this regard, their ownership will not be affected in any way.

Of course, we can see that the loss of right claimed by indigenous villagers refers to their perceived right to turn agricultural land into more valuable land through the small house policy or other policies, for example, by having it converted into land for village-type development under a statutory plan and reaping the benefits so generated in this course.

Be it government papers or past court cases, they all point out that the small house policy is intended to enable indigenous villagers to settle within their own villages and the Government has never promised villagers that they can make profits through their small houses. Court cases also point out that if

indigenous villagers and developers try to conspire together through the commonly called "the transfer of the right to build small houses from indigenous villagers to developers" to make profits, the contracts entered into or the right specified therein would both be illegal.

The Court of Appeal also pointed out in 2001 that there were grounds to suspect that the agreements made between the parties were illegal, and there were grounds to consider that the agreements inevitably required that misrepresentations be made to the Director of Lands through the District Land Offices as to the intention on the part of the various indigenous inhabitants to occupy the houses that were to be built.

The foregoing examples show clearly that the small house policy *per se* is not designed to enable indigenous villagers to make gains through sales and purchases. Furthermore, if developers anticipate that there will be chances to make profits in the future and acquire agricultural land from villagers in advance, I cannot see any reason why the Government has to assume responsibility for the failure of their anticipation to materialize. As in the case of "Fourth Uncle", he acquired a lot of agricultural land in the New Territories but if in the end, it cannot be developed, he can only donate it to NGOs for purposes of building welfare facilities. This shows that the Government does not have to assume any responsibility for any anticipation of sale and purchase that failed to materialize.

If what indigenous villagers refer to as their right is that of getting rich through speculations in small houses or the implications on their contracts with property developers, I can state clearly here that I cannot agree with the assertion that this is in line with the interests of society and the public. The aim of formulating the small house policy is to allow indigenous villagers who can prove that they have actual accommodation needs to build an abode for self-occupation, so it is not a process for them to make profits or a machine to print banknotes.

Therefore, I believe that in this incident involving Sai Wan, the decision of the Government is correct and it is also for this reason that the Democratic Party will support the views of the Government and oppose "Uncle Fat"'s amendment to the resolution. I also hope that the Government will also seriously consider re-examining the existing enclaves in other country parks to see if the various arrangements put in place by the Government would compromise public interest.

In addition, I also wish to point out that if the Town Planning Ordinance (TPO) is invoked to impose regulation, for example, by preserving the agricultural land owned by villagers for agricultural use, this will actually address the proposal made frequently by villagers that they would accept invoking the TPO to handle this matter. However, as we all know, land zoned for agricultural use still cannot be developed. Therefore, in proposing that the approach of an Outline Zoning Plan (OZP) be adopted, the thinking of villagers is actually to hope that the Government would, through an OZP under the TPO, turn the agricultural land owned by them into village land. This shows precisely that the rights referred to by villagers are not just those of safeguarding their right to resume farming or the right to restore their original abode, rather, they hope that through a change in land use, major benefits in housing can be reaped. In this regard, no encouragement through government policies should be given.

With these remarks, I support the Amendment Order proposed by the Government and oppose the amendment resolution proposed by "Uncle Fat". Thank you, President.

**DR ELIZABETH QUAT** (in Cantonese): President, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) supports the amendment proposed by Mr LAU Wong-fat and opposes the incorporation of the enclave located at Tai Long Sai Wan (Sai Wan) into the country park concerned. In fact, there are many grounds, but I wonder if it is because the number of villagers is indeed too small, amounting to just a few dozen households in total, that all along, the Government has not been able to hear their voices. Moreover, the mass media are more inclined to reporting the views of environmentalists who do not live in the village and seldom cover the voices of villagers living in the village every day.

President, recently, some friends have said to me that the beach at Sai Wan is very beautiful, so incorporating it into the country park concerned is desirable as it can be further protected. However, they have no idea that the beautiful beach at Sai Wan and most of the surrounding land already form part of the country park concerned. The current argument in society is on whether or not the private land there, that is, the village of Sai Wan, which is now designated an enclave, should be incorporated into the country park concerned.



I believe many people in Hong Kong do not understand what is meant by enclaves. For this reason, I wish to talk a little about the history of enclaves first. At the early stage of developing country parks, that is, in the 1970s, the authorities excluded villages and agricultural land over which land owners had voiced opposition from the boundaries of country parks. Subsequently, in order to win the support of villagers for the establishment of country parks, the authorities began to automatically exclude villages and agricultural land from the boundaries of country parks. The excluded private land and the excluded Government land used as buffers around the former became what we call enclaves nowadays. Although enclaves are not regulated by the CPO, their land use is still restricted by land lease conditions and the relevant legislation, including the requirement that before carrying out any development, a development proposal has to be submitted to the LandsD and the Buildings Department for approval.

It can be seen that enclaves represent a promise made by the Government back then to garner villagers' support for the establishment of country parks and a promise that the private property rights of villagers would remain unaffected. Any change is tantamount to a breach of the promise made back then by the Government. The details of the relevant promise have been spelt out clearly by Mr LAU Wong-fat just now.

On the incident this time around, if the Government is sincere in winning the support of villagers, why can it not sit down to discuss with villagers in detail the future direction of development? Even as we practise conservation, we can also carry out development that retains rural characteristics. If necessary, we should also discuss land exchange or other forms of compensation. Why has the Government refrained from communicating with villagers and why has it held discussions only with green groups but not with villagers living in the village?

In fact, ever since the establishment of the country park concerned back then, Sai Wan has been surrounded by the country park concerned and vehicles cannot access it. Every day, villagers have to walk half an hour going to and from the village, so this is very inconvenient. Originally, there was a pier but since it was located within the country park concerned, its use had to be discontinued and now, going there by sea involves taking the risk of wading ashore. Originally, some villagers led a life of self-subsistence there by carrying out farming. However, since the Government had to build a reservoir, water-catchment areas were established and the water was intercepted, so there

was no more water for farming. Since villagers had to make a living, some went abroad, some opened stores or cafes to cater to hikers, hoping that when they sit down to enjoy the beautiful views of the countryside, they can have a cup of tea or eat a bowl of noodles to refresh themselves before continuing with their trip. In this way, it is possible for them to make a living.

However, in recent years, the villagers have received government summonses forbidding them to continue with their businesses there. Some villagers planned to apply for a change in land use by converting their buildings into hostels, guest houses, and so on, hoping that more visitors can enjoy the nocturnal scenery there. However, the authorities rejected the applications. Now that even the operation of cafes and stores is not allowed, this is tantamount to driving them into extinction. How and where can they make a living in the future?

Throughout so many years, the authorities have not tried to solve the problems facing villagers in their daily lives. Not only is there no transport infrastructure at Sai Wan, the authorities have not granted land for them to continue to build village houses either. Up to now, the authorities have only dragged their feet, thus making the living of villagers very difficult. There is little wonder why villagers feel that not only does the Government lack the sincerity to help them solve their problems in living, it is also driving them into extinction step by step.

Today, the Secretary is saying here again, "Let's include Sai Wan in the country park! After doing so, the Government would help the villagers improve their living environment and even help them develop eco-tourism together.". I wish to tell the Secretary that regardless of whether there is a country park or not, such efforts should have been made long ago. The Government did not make them in the past and now, and it is saying that this will be done after incorporating the village into the country park concerned, so how possibly can the villagers believe you? Had the Government discussed with villagers properly beforehand and put in place various kinds of complementary facilities properly, discussing thoroughly if compensation was necessary, and had it been open to discussions, perhaps the villagers would not have voiced such strong opposition today.

President, we fully understand that the public want to protect the natural environment and this is only right. There is also nothing wrong if they worry about the destruction of Sai Wan. That villagers want to protect their private

properties, request that such complementary facilities for their daily lives as piers and roads be improved and operate such small businesses as cafes and guesthouses to make a living is also reasonable and justified.

In fact, to incorporate private land into country parks without making any compensation is just like designating private properties as declared monuments. How can it be said that there is no effect whatsoever on private properties and their future value? How can you convince villagers that there is no effect whatsoever? Indeed, you can say whatever you like.

In fact, it is possible to find an appropriate equilibrium among conservation, development and the rights of villagers, nor is incorporation into the country park the only way of conservation. In many overseas countries, even as rural areas are conserved, such low-density designs as green hotels and hostels that blend in with the natural environment are developed. On the one hand, the tourism industry can be developed and even as visitors can enjoy the convenience, such development can also provide employment and development opportunities to nearby residents; and on the other hand, indigenous villagers can be assisted in preserving their rural culture. There are many ways to strike a balance between conservation and development, including the establishment of nature conservation funds. Therefore, as early as 2005, the DAB already requested the Government to inject fund for the establishment of a conservation fund and use the land premium proceed from the transfer of plot ratio as a steady source of funding. The conservation fund can be used to train more conservation officers of a higher standard and as a source of funding for land resumption, land exchange and the leasing of land for conservation purposes. Even as the natural ecology is conserved, it can also be ensured that private properties can receive reasonable compensations. This can reduce controversies and enable development to be carried out in a more sustained manner, thus achieving an all-win situation.

In the United Kingdom, there is an example of a fairly successful fund called the National Trust which was established more than a century ago. This trust manages 250 000 hectares of land, 600 miles of shorelines with ecological value and 200 buildings and farms with conservation value in the United Kingdom. Through the effective management of this fund, the areas with conservation value were gradually developed into scenic spots and their conservation and management are carried out through the acquisition of land and lease of land from owners. This fund also recruits a large number of volunteers

and now there are more than 38 000 volunteers. It also provides training to them, so that they can take charge of conservation and management efforts.

In fact, there are many examples overseas that are worthy reference, so why can the Hong Kong Government not consider these approaches that can maintain social harmony and lead to an all-win situation, instead of adopting an approach described by villagers as "riding roughshod over the people", in which no negotiation whatsoever was conducted and administrative means were adopted to force the affected villagers to succumb? Is it because of the fact that there are only 30 households that the Government can ignore their demands? Is this not bullying the villagers? Is this fair?

President, some groups had said to me, "Elizabeth QUAT, why do you have to offend so many voters just for the sake of these 30 village households?" At that time, I felt really angry. Did they mean that the villagers in these 30 or so rural households were not human beings? Does anyone mean that there is no need to heed the rights and living of a small number of people, or that they do not deserve our concern? As a Legislative Council Member for that district, if even we do not speak for them, who else would help them? The conservation of rural areas should not just be the conservation of the flora, fauna and landscape. Should the lives and cultures of the indigenous villagers not also be conserved and taken care of?

Yesterday, I also discussed this issue with Mr Lam Chiu-ying in a radio programme. Mr LAM called on all of us not to oppose the development of rural areas or the development of country parks because development does not necessarily mean the construction of high rises or luxury properties. The improvement of complementary facilities, the development of guesthouses and helping villagers meet their needs in living and livelihood also represent an approach in development.

Originally, the conservation of Sai Wan this time around can serve as a very good example to prove that a balance can be struck between conservation and development and that there is no need to affect the protection of private property rights in Hong Kong, which is the cornerstone of the rule of the law in Hong Kong. But now, the Government has adopted the most effort-saving broad-brush approach. If you voice any opposition or any dissatisfaction, the best thing to do is to incorporate all enclaves into country parks and there is no need to communicate with the stakeholders, since there are already enough votes

to ensure passage. It is also unwilling to introduce new thinking or new approaches, and no consideration whatsoever has been given to the establishment of any conservation fund, so may I ask how possibly can I lend it my support?

Originally, the living of villagers does not have to be pitched against environmental protection. The Government should have communicated adequately with various stakeholders in an open and understanding manner and sought a consensus. Only this is the proper approach to administration. However, the approach adopted by the Government this time around is most inept and has created the situation of pitting people in urban areas against those in rural areas. At present, a piece of legislation is being steamrolled through and villagers are forced to accept it. Many members of the public living in urban areas have demonized villagers, only bent on criticizing them for being selfish. For example, when Mr WU Chi-wai spoke, he only considered that they wanted to speculate on properties. What good would this do to the future? This would only bring about more squabbles and in the future, it will be more difficult to travel the road of conserving rural areas, so an all-lose situation will be created. Is this really the best course of action?

Here, I implore the Government, environmental groups, Honourable colleagues and the general public to think twice. President, I so submit.

**MR GARY FAN** (in Cantonese): President, the controversy over Tai Long Sai Wan (Sai Wan) originates from the fact that all along, the Government lacks overall planning and adequate consultation on the rural areas of the New Territories. Instead, it only takes remedial measures to solve and cope with problems. Three years ago, the "Simon LO incident", in which excavations were carried out illegally in the enclave at Sai Wan for the construction of a private luxury property, arose. Subsequently, in the wake of extensive media coverage, public concern was aroused, thus setting the prologue to the controversy over Sai Wan. The occurrence of the "Simon LO incident" is precisely the result of the lack of a well-conceived conservation policy on enclaves on the part of the Government over the years, thus leading to the emergence of this kind of unauthorized building works in many rural areas with beautiful scenery in Hong Kong.

President, the Neo Democrats and I support the incorporation of the enclave in Sai Wan into the country park concerned, so that this enclave can be

protected by the CPO. Some people may query if we simply want to support the Government. Of course, it is not as simple as that. We believe that it is not enough for the Government to just take remedial measures, rather, it should change its present thinking of "just regulating the countryside but not villages". After all, Sai Wan is not simply a rural area. As Honourable colleagues who spoke just now pointed out, it is a village with a long history, so the Government should formulate some policies, for example, a sustainable agricultural land rehabilitation scheme, to assist indigenous villagers in Sai Wan in developing the rural area, on the condition that the CPO is not violated, so as to ensure that under the principle of not damaging the natural ecology, the livelihood of indigenous residents or villagers can be assured.

President, Sai Wan is located in Sai Kung, which is known as "Hong Kong's back garden", and it is the most outstanding among the "Sharp Peak and four bays" in Sai Kung. It is well-loved by hikers in Hong Kong and from overseas, and it was even ranked the top in the Hong Kong Best 10 Scenic Sites Election organized by the Agriculture, Fisheries and Conservation Department, so this attests to the great potential of this place in terms of the ecology, environment and tourism. However, all along, the emphasis of the so-called "village-type development" in the New Territories has been placed on the development of small houses without any development in respect of the ecology, culture or the rural area, so it seems the construction of small houses is the only mode of development for villages in the New Territories. As Dr Elizabeth QUAT said just now, we are not targeting the indigenous residents or villagers, rather, our target is the fact that it seems such a mode of development has become the only one. The Government should seize the opportunity this time around and through this opportunity of incorporating Sai Wan into the country park concerned, change its past thinking of just focusing on the development of small houses to forging an eco-rural area that can be developed in a sustainable manner, rather than adhering obstinately to the zero-sum game of "either develop small houses or plan an area as country park" which pitches people in urban areas against those in the rural areas or causes a tussle between villagers and environmental groups. We do not wish to see this kind of situations and it is incumbent upon the Government to deal with them.

Sai Wan is a conservation area with a very precious natural ecology. Just now, Mr Vincent FANG of the Liberal Party said that the public overwhelmingly

disagrees with the incorporation of Sai Wan into the country park concerned. I wish to stress that this is not the whole truth because just now, Mr Vincent FANG said that the Sai Kung District Council (DC) also opposed the incorporation of the Sai Wan enclave into the country park concerned. I am a member of the Sai Kung DC and in the past few years, although not all members agreed with incorporating the enclave into the country park concerned, since we believe that Sai Wan is very precious, we have to be very cautious and prudent in handling this issue. Therefore, the Neo Democrats proposed that the Government should consider a number of proposals, offer compensation or show its concern for villagers in its policy, for example, by assisting them in farming or operating stores. At one time, some civil groups even proposed that the Government inject public funds to the establishment of a conservation fund and use public funds to acquire dozens of private sites with conservation value. As a member of the Sai Kung DC, I also proposed a motion on this in the Sai Kung DC in 2010 but unfortunately, due to the mentality of pitching people in urban areas against those in rural areas or causing a tussle between villagers and environmental groups, even though Dr Elizabeth QUAT also said just now that the DAB, to which she belongs, also supported the proposal of a conservation fund, my motion was still negated in the Sai Kung DC back then, which was most regrettable indeed. I hope that Honourable colleagues from various political parties and groupings in the legislature could jointly urge the Government, even by moving motions in the relevant panel or at Legislative Council meetings, to reconsider dealing with dozens of sites with high ecological value by means of a conservation fund.

This time around, the Neo Democrats also wishes to propose to the Government that villagers in Sai Wan village be allowed to operate guesthouses, or the bed-and-breakfast mode of tourism, legally. We have seen many such instances overseas, so why is this not allowed in Hong Kong? Why has the SAR Government not put in place any policy to complement this? In fact, villagers can be trained to engage in activities related to eco-tourism, for example, by working as tour guides. So while the natural ecology can be conserved, the livelihood of villagers can also be assured. For the past year, we often said that the Individual Visits Scheme had resulted in a trend of concentration and homogenization in the development of tourism in Hong Kong. This kind of eco-tourism can actually be promoted through government policies and launched with government assistance, so it is eminently preferable for the Government to do so.

President, in fact, many places in Asia already have already accumulated rich experience in developing eco-tourism, so Hong Kong can draw from and make reference to it. If Members have watched a Taiwan film called "Seediq Bale" about a year ago, they would know that in many areas in Taiwan, there are many aborigine tribes and one of them is the Smangus tribe in Hsinchu County. Some years ago, since the tribe was found in remote mountainous areas and the transport was poor, only 13 households remained. For this reason, the outside world called it the "black tribe", meaning that its development in all aspects was very backward.

Subsequently, the villagers discovered a forest of giant trees with sightseeing value in the village, so the Taiwanese Government assisted the villagers in building a road link to the outside world and the villagers also repaired the paths leading to the forest of giant trees carefully. Be it such facilities as bridges or pavilions, they were all built with wood and no structures built in such materials as concrete, stone or bricks were added, so as to preserve the original aura and appearance of the tribe. The villagers also serve as part-time tour guides and, using the hunting and weaving culture of the tribesmen as the focus, they explain to tourists the relationship between the tribe and the environment. In addition, the villagers also used wood to build a restaurant that can accommodate more than 100 people and operate guesthouses. The development of tourism and the improvement in external transport improved the living of the Smangus tribe significantly and the villagers are also very happy.

President, it is very worthwhile for the Government to make reference to the development mode of the Smangus tribe, so that many villages in Hong Kong would not go into decline and fall into disuse but blend in with the environment of the country parks. Of course, the premise of the aforementioned proposal is that the Government must incorporate the "enclave" into the country park concerned to ensure that any future development is restricted by the CPO and the "Simon LO incident" three years ago will not recur. Therefore, today, on behalf of the Neo Democrats, I oppose the motion moved by Mr LAU Wong-fat and support the incorporation of all existing enclaves into country parks as soon as possible. I once again call on the SAR Government to listen to the heart-felt voices of villagers and the specific policy proposals and direction of development advocated by us.

President, I so submit.



**MR ALAN LEONG** (in Cantonese): President, in Hong Kong, a place that encourages spending and has high land prices, if we want to find some leisure activities for the whole family to spend an afternoon without spending too much money, this may be a somewhat difficult thing to do. Apart from the country parks, where else can we enjoy family life without spending a cent and without any distinction of classes, where all that requires is only a vehicular trip lasting some 15 minutes? Therefore, the country parks have long become a part of life in Hong Kong, and it is an indispensable part.

The policy of the conservation of country parks can be traced back to the 1970s. In 1977, the Government designated the first country park. In 2004, the Government introduced a new nature conservation policy and the policy objective is to manage and protect the natural resources of Hong Kong in a sustainable manner to maintain bio-diversity. The conservation of country parks is focused not just on their ecological value, nor does it totally disregard the well-being of local residents. In 2012-2013, 13 million people visited the country parks. Through a sustainable mode of development and the development of eco-tours or relevant services by putting the country parks to good use, green and sustainable business opportunities can also be created.

In July 2010, the mass media revealed that Mr Simon LO, Chairman of the Mongolia Energy, was building a luxury villa in Tai Long Sai Wan (Sai Wan). The vegetation at the site was razed and nearby streams were polluted. Government land with an area of 20 000 sq ft was illegally occupied, thus drawing the wrath of all Hong Kong people. This incident triggered the inclusion of Sai Wan in the development permission area plan and the announcement in the Policy Address of October 2010 that prompt action would be taken to regulate land use in the vicinity of country parks to strengthen protection in view of the Sai Wan incident.

Sai Wan was ranked the top in the Hong Kong Best 10 Scenic Sites Election organized by the Agriculture, Fisheries and Conservation Department (AFCD), Friends of the Country Parks and Lions Club International District 303 — Hong Kong and Macao, China. It can thus be seen that incorporating the enclave located at Sai Wan into the country park concerned is consistent with public opinion and the relevant procedure.

In August 2012, at a special meeting of the Country and Marine Parks Board, it was unanimously agreed that the enclave located at Sai Wan be incorporated into the boundaries of the Sai Kung East Country Park (SKECP). During the period of public inspection lasting 60 days, apart from nine representations voicing objection, the AFCD also received 3 200 representations supporting the incorporation of Sai Wan into the country park concerned. Therefore, public opinion in this regard is quite clear.

Today, Mr LAU Wong-fat has moved an amendment resolution to oppose the incorporation of Sai Wan into the SKECP. The major ground for this amendment resolution is that after the private land at Sai Wan has been incorporated into the country park concerned, land development will be restricted, thus lowering the land value and even rendering the land valueless. As regards the second ground for objection, it is believed that the infrastructure and facilities essential for the living of villagers will be affected. President, certainly, we know that some villagers are staging a demonstration outside the Legislative Council Complex now and some people are also encamped outside the Complex. However, incorporating Sai Wan into the SKECP does not necessarily run counter to the interests of villagers.

First, the total area of the land at Sai Wan to be incorporated into the SKECP is about 16.55 hectares and only about 24% of it is private land, including agricultural land and isolated village houses, while the remaining 76% is Government land through and through.

According to section 10 of the CPO, after the gazettal of the proposal in relation to proposed scope of the country park, villagers can still use any land for the purpose of forestry, agriculture or fisheries without having to make applications in advance and villagers' agricultural activities would not be affected. They can also carry out works for the maintenance, improvement or alteration of any building and any works for the purpose of replacing sewers, mains, pipes, cables, and so on, and the infrastructure and facilities essential to villagers in their daily lives would not be affected. As regards new development projects not belonging to the aforementioned works, villagers can also submit applications to the Director of Agriculture, Fisheries and Conservation so long as the works are compliant with the lease conditions of the site.

As regards the question of whether or not small houses can be built on private land after its incorporation into country parks, in June last year, the Country and Marine Parks Board and AFCDC issued a note, namely, the Note on Use or Development of Land within a Country Park Enclave after Inclusion into a Country Park, which clarifies that it is not true that small houses cannot be built on land within country parks. The Administration pointed out, and I quote, "In respect of the Sai Wan Enclave, as most of the private lands there are Old Schedule agricultural lots or Old Schedule building lots, no matter whether the lands are included or not to a country park, development permitted under the terms of the lease concerned is limited ... in general, the Authority is of view that small houses are compatible with country parks."

Of course, after a District Lands Officer has received an application for the construction of small houses, he will consult the Director of Agriculture, Fisheries and Conservation. The Director will consider whether the proposed use or development would substantially reduce the enjoyment and amenities of the country park concerned. If an application for the construction of small houses does not contravene the principles of sustainable development, the protection of natural resources and bio-diversity, there is still hope that it will be approved.

In fact, ever since the implementation of the CPO, the Government has received two applications for the construction of small houses on private land within country parks and they were both approved. In other words, the assertion that after Sai Wan has been incorporated into the SKECP, the value of the land would be reduced to zero is actually an overstatement.

In addition, the Government has also promised that after the incorporation of the land at Sai Wan into the country park concerned, it would embark on improving the management and complementary facilities of the area and commit resources to improving the ecology, environment and recreational facilities there, so as to enhance its aesthetic value, and it would seek the co-operation of local villagers in improving the environment.

President, there is no lack of examples of success in the joint management of national parks by indigenous people and the government around the world. I also noticed that some Members in this Council also mentioned the Kluane National Park and Reserve of Canada and the Uluru-Kata Tjuta National Park in Australia, which are all examples of great success. Of course, the success achieved in these two examples is dependent on a good basis for the co-operation between the local government and indigenous people. The government also has to display a fair amount of stamina to make the indigenous people understand that managing country parks or conserving natural resources together is not necessarily a "zero-sum" game. Members should not presume that if the Government wants to conserve the environment, the indigenous people will certainly stand to lose and in order to avoid causing losses to the indigenous people, the Government cannot incorporate the land concerned into country parks. In the two examples in Canada and Australia mentioned just now, before the commencement of joint management, the conditions of the places in which the national parks are located did not compare favourably with those after their incorporation and joint management. In addition, through joint management, the indigenous people can make use of the natural resources more effectively, so apart from bringing improvements to their living, the environment is also enhanced.

The Civic Party finds that no matter from which angle we look at the amendment resolution moved by Mr LAU Wong-fat today, it cannot be supported. For this reason, based on the grounds put forward by me just now, the Civic Party opposes the amendment resolution moved by Mr LAU Wong-fat. I so submit.

**MR JAMES TIEN** (in Cantonese): President, at this time and age when population keeps on growing, with more people there has to be more land for to grow food and provide housing for the people. On the other hand, the land on Earth that should be protected is diminishing. With respect to this problem, I think it is a difficult one to deal with and that applies to every place on earth. In the Western countries, for example, they have national parks. But they find it impossible to further expand these parks. The area of these national parks has not become any less and no land from these national parks is singled out for the purpose of urban development and to be used in building houses or tourist facilities.

Coming back to the case in Hong Kong, we used to give people an impression — and that applies especially to the business sector or the Liberal Party — that much emphasis is placed on development. In the case of the development of the North East New Territories, the Liberal Party supports it. But in the case of reclaiming land from the sea and protection of our harbour, we are on the side of environmental protection and we oppose more reclamation. Now the Government has made a number of proposals in its bid to look for more land. Secretary WONG Kam-sing is now in attendance. The Government has raised these proposals with the Liberal Party. We told it that insofar as reclamation was concerned, it seemed that it could not really work in any place. We oppose the Government carrying out reclamations. Apart from looking for rock caverns, concerning other methods to open up more land, we have to state it clear from the outset that the Government cannot set its eyes on the country parks. It cannot take out some lots from the country parks, such as those in the Peak and Tai Tam and put them up for auction because these country parks are close to people's residences. The Government will make a lot of money, but we do not support this practice.

About places like Tai Long Sai Wan (Sai Wan), Kam Shan, Yuen Tun and so on, they are enclaves in the green belts or country parks. I think many people in Hong Kong have no idea about what enclaves are. They are not what we call brownfield sites or old schedule lots, so what should we do about them? The first thing we notice is that the government policy concerned is actually somewhat contradictory. On the one hand the Chief Executive says that he wants to look for land everywhere because no land can be found for housing construction. The result is there are not enough public rental housing flats and Home Ownership Scheme flats. In the private sector, there are not enough hotels, the office premises fetch high rents and there are not enough shopping malls. So the Government keeps on looking for land while on the other hand, it resumes that piece of rural land which Mr LAU Wong-fat cares so much about and also incorporates a total area of 1 355 hectares of enclaves into the country parks. If these lands are all incorporated into the country parks, I do not understand why in the process of looking for land, apart from brownfields, what kinds of land can the Government find?

Then where can the Government find land? Reclamation from the sea is an even greater problem. Some people suggested building an artificial island. I have never heard of such an exciting idea as this. It is about piling up sand and mud in the sea to build an artificial island. Then will the island be used to build offices, malls and what not? No decision on that has yet been made. But

nevertheless someone has put up this proposal. Coming back to what I have just said, if we are to resume such lots of land in the middle of a country park, or some village or rural land, can the Government resume them after paying a premium? Then can the land be used to build public rental housing flats or Home Ownership Scheme flats or begin some private sector developments? I think we should retain such room here.

But this situation utterly does not exist in Sai Wan. President, I do not own any agricultural land in the New Territories, so I have no interest to declare. But the interest I may have to declare is that I like Sai Wan very much. I often ride a boat there on Saturdays and enjoy the scenery there with my grandchildren. I admire the surroundings there very much. I wish certainly that the place can be preserved. When I look at that lot of land, I wonder why the Government should be worried about developers launching some very large real estate projects there. When we go there, we have to use an hour or two travelling. And if you do not have a yacht, it would be impossible for you to go there. And what the Government is trying to do is to zone a very small parcel of the land there. I think the Government is making a fuss out of a trivial matter. The Government says that there is a very large piece of land next to it and 76% of this piece of land is Government land. Then it can just designate the land as country park and that will be okay. Why does it have to include close to 17 hectares of private land? Actually, the land is surrounded by Government land and a road must be built for access. The villagers can really do nothing and at most they can build a handful of village houses and that is all. I would think that there is little value in these lots of land. But since the Government wants to resume them, the HYK will of course say that there should be compensation if land is to be resumed. But the Government says no compensation is necessary. As the Chief Secretary, Mrs Carrie LAM said, some statutory procedures have been undertaken.

What in fact do statutory procedures mean? It means I do not have to obey the previously enacted law. The law previously provides that indigenous people and their land can be used this way. But after undergoing the statutory procedures, that is, when land use is changed by this Council today, the previous law is repealed by the procedures. As Mr LAU Wong-fat, the Chairman of the HYK, and others who have published an advertisement in the newspapers say, well, the ad is very long and I do not have the mood to read it carefully. The article mentions things like the Opium War, the times of the British rule, the 1950s and so on. They are very much obstinate about that period of history. In other words, the Government does not show any respect for the law enacted then,

or it can be said that after the passage of time, the law then has changed and after the law is amended today, the effect will be that their land will be taken away in a lawful manner. I do not think the land is worth a lot of money, but the people may think that the land may still have some kind of use. This is a matter of principle because the Government takes away their private property without giving them any compensation. With respect to this point, Mr Vincent FANG and Mr Tommy CHEUNG of the Liberal Party have expressed our view earlier.

In Hong Kong which upholds the rule of law, the private property right should be preserved. It is another matter whether or not the private property in question is of any use or worth much money. We cannot say that a piece of land is situated in a remote area and there should not be too many people going there. And on top of this, it is surrounded by Government land and should not be worth too much money and so it might as well be resumed. Why should people hold such a strong view on this matter? Once this precedent is set, then in future the Government can resume land which is useful by making the same kind of order and without making any compensation.

President, we do not favour the HYK in particular and we have never said how much the amount of compensation should be. And we have not suggested to the authorities that some tens of million dollars or hundreds of million dollars should be paid as compensation. We have never talked about the amount of compensation or the value of the land concerned or how much money should be compensated. I am sure the HYK can sit down and discuss with the Government. But if an attempt is made to use a legislative procedure to resume their land, this is unreasonable. From the perspective of environmental protection, these few lots of land can never be used to build houses of a significant number. Of course, I know that the problem arises when a Mr LO formed some land in Sai Wan and started some construction works there. Many of us queried what could be built there. The place cannot be accessed unless you have got a yacht. Even if you have built a big villa there, I am sure you cannot have any friends coming to pay you a visit because you cannot expect them to climb over the mountains to come to your place. Your friends have to come in on the sea in a boat. If you say the house is for self-occupation, I doubt if there is anyone who really has got this kind of plan. Having said all these, regarding the above example, the Liberal Party will never agree to it. This is because what is done on the land will destroy it. However, there is no need for the Government to amend the law and actually the matter has been settled. This

is because those cranes will never get any permits and so how can they bulldoze the hills and trees there to build houses? The Government will stop the works very soon. I would think that there is no need for the Government to propose an amendment order because of this.

Another thing is, we all abide by the law and Mr LAU Wong-fat is very concerned about Articles 6, 40, 105 of the Basic Law, and so on, and that is about protection of "right of private ownership of property in accordance with law". I am sure both the business sector and the general public attach great importance to this right. And there are provisions which state that "the lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the Hong Kong Special Administrative Region". I am not sure once an amendment is made today, whether this will contravene the Basic Law, because these provisions protect their right of private ownership of property. Now once changes are made to the law, this protection will be gone. I am sure this will give rise to another view in law. Now Mr LAU Wong-fat proposes this amendment, I am sure Members from the pan-democratic camp will all be on the side of conservation, in disregard of the right of private ownership of property. I think this is strange. This is because there are many people in the Civic Party who are barristers. It is known that barristers are most concerned about the rule of law and the spirit of contract. Since we used to have these laws, how can they support the Government to change the law to resume the land without making any compensation? And for us, we have not said how much the compensation should be.

With respect to this matter, I would think that the Government should discuss with the HYK. It is because many similar incidents may happen in future. I believe what they are worried about is not only this piece of land which is nearly 17 hectares in area. It is because once this precedent is set, will there be many of these so-called enclaves found in other places in the New Territories? They may not be found in Sai Wan only, but also in places like New Territories East, New Territories West, Ta Kwu Leng or Sha Tau Kok. Are such enclaves found there and can the Government take away the land? Of course, the Government also says that it does have the right not to remove Government land from the green belts to the country parks and it is the Government's own problem if it does not have land for housing construction. But with respect to private land, we hope that the Government can attach importance to private rights and private ownership of property and it should discuss with the HYK before proceeding any tasks.



The original motion from the Government will be passed today because I would expect that under separate voting, this amendment resolution proposed by Mr LAU Wong-fat in his personal capacity will not be passed. Therefore, the Government feels at ease and it does not need to solicit votes from Members. But I think a bad precedent is set because the HYK has strong views, not on this matter alone for many similar events will come later. Will this make our society more unstable? More than an hour ago the Chief Secretary spoke on an important issue, that is, the constitutional reform package. We must strive for greater harmony if we want to forge a consensus. This will enable us to get enough votes from the pan-democratic camp. On the other hand, if Members with a rural background from the pro-establishment camp are unhappy with the Government, will this affect the consultation exercise for the constitutional reform or cause any change to their position, hence resulting in yet greater disharmony in society? Then there will be serious impacts on both the timetable for universal suffrage and governance.

President, I so submit and I hope that even if the Government wins today, it must deal with this issue properly so that we will not see any division in society — or in the HYK. Thank you, President.

**MR MICHAEL TIEN** (in Cantonese): President, before I speak on the Country Parks (Designation) (Consolidation) (Amendment) Order 2013, I would like to declare my interest. I am an adviser designate for the HYK.

When the Government plans to include Tai Long Sai Wan (Sai Wan) into the country park, this lands me really in a dilemma. Many conservationists who love country parks criticize the rural inhabitants as selfish and caring only about personal interests. These conservationists think that country parks belong to all the people of Hong Kong and should all be preserved. It is true that their argument is tenable. But on the other hand, the rural people base their position on the law and think that their land is zoned into the country park for no reason and there can be no development of the land. They are very frustrated because they are criticized as selfish. This is natural enough. I think the rural people have their justifications.

The Government, the conservationists and the rural inhabitants all have their positions and there are no rights or wrongs *per se*. In order to play the part of a peacemaker, I have spent a lot of time and effort to dig into the origin and

development of the issue and found that they are very complicated. It is because of this attempt that I came to understand what has caused the misunderstanding between the Government and the villagers. There is a lack of communication between the Government and the villagers. Or I can say that there is only communication in writing between the two parties, much like that of pen pals and friends on the Internet. It is only inevitable that the Government is misunderstood.

The former director of the Hong Kong Observatory LAM Chiu-ying must be a staunch supporter of country parks. He has said that the idea to develop country parks is like cancerous cells in the mind. But he would go to Sai Wan to listen to what the villagers have got to say. He may go there for a bowl of bean curd jelly, or he may patronize the stores there. But what about the Government? It seems that I have never heard Secretary WONG Kam-sing having gone to Sai Wan to eat a bowl of bean curd jelly or attend a meeting of the HYK to explain the case to the villagers. Maybe he has done it, only I do not know.

I will never agree with LAM Chiu-ying's remark that the idea of developing the country parks is like cancerous cells in the mind. How can a sweeping approach be adopted for land development matters? Can we never lay our hands on even an inch of land in the country parks? No never? When were the boundaries of the country parks drawn and who made the decision? With the passage of time, great changes have been brought to the environment, so what is the point of making the idea sacrosanct? Now the people are in desperate need of land and it is so pressing that some of them do not even have a place to live, so do we have to guard the country parks against any change to them at all costs? I admit that this is an extreme example, but such things may happen. And with the development of society and population growth, such things are very likely to happen.

I would think that the idea of likening the development of country parks to cancer cells in the mind is wrong. Likewise, the blind inclusion of all enclaves into country parks is also not justified. With respect to the Sai Wan incident, after listening to the arguments from both parties, I conclude that there are two major misunderstandings among the villagers.

First, the villagers are worried that Sai Wan will set a bad precedent and the remaining 51 enclaves will be mandatorily included in the country parks and

the Government will refuse to undertake any planning according to the OZPs. Once land lots are included in the country parks, they will be stripped of their development potential, tantamount to a forced deprivation of private property. But the explanation I have got from the Government is totally different. Of the 51 lots, at least half of them will not be included in any country park and planning will be undertaken according to the relevant OZPs. These lots include places in Hoi Ha, Pak Lap and So Lo Pun. And as we all know, they will not be included in any country park. According to estimates from the Government, the green groups will not give up easily and by that time there may be an ironic and complete reversal of the situation in that the Government may have to solicit the support of the HYK so that it can explain its position to these green groups. From this it can be seen that every lot of land should be given an independent assessment.

The second misunderstanding is that the villagers are worried that once private land is incorporated into a country park, they will lose their right to build small houses. A senior member of the HYK who is also a lawyer told me that if an application was made to build a small house inside a country park, the reply from the Government would definitely be "no". I have made enquiries with the Government repeatedly on this point and the reply I got is another story. The Government said that to date it has only received two applications to build small houses in country parks and they are first, the application made in 2002 concerning land in Wong Yi Chau in the SKECP and the application made in 2004 concerning Kai Kuk Shue Ha Village in Plover Cove Country Park. These two applications were approved. The Government plans to undertake some greenery improvement near the small houses concerned to beautify the surroundings and make it complement better with the country park. The Government also told me clearly — Secretary WONG Kam-sing is now looking at me and what I am going to say now actually come from officials — that even if Sai Wan is incorporated into the country park, there will not be any difference in terms of the difficulty in building small houses there as compared to the time before the land is included in the country park. These are remarks from government officials. After pondering over the matter, I decided to support the inclusion of enclaves into the country park concerned.

(THE PRESIDENT'S DEPUTY, Mr Andrew LEUNG, took the Chair)

However, I wish to emphasize that even if the Government wins this battle, in the coming battle concerning the inclusion or otherwise of places like Hoi Ha, Pak Lap and So Lo Pun in the country parks, how will the Government gain the confidence of the green groups and members of the public who are concerned about the countryside and assure them that the natural environment will be protected? The Government cannot hope to gloss over the matter and it must make clear and unequivocal explanation in any communication it makes. After this event, I have come to learn that the situation is like the left hand and the right hand talking about different things. Unless one side is not telling the truth, I would think that after all it is not so difficult to come to a decision.

Deputy President, I so submit.

**MR CHAN HAK-KAN** (in Cantonese): Deputy President, development and conservation have always been a difficult choice to make. Now 70% of the land in Hong Kong is rural land and 40% of it are statutory country parks and special areas. On the one hand the Development Bureau is eyeing the country parks and hopes that the land there can be used for housing construction. On the other hand, the Development Bureau wants to formally include the enclave in Tai Long Sai Wan in the country park. Deputy President, you can see from this incident that the Government is contradicting itself.

Earlier on many Honourable colleagues have discussed the gains and losses of development and conservation among the villagers of Sai Wan Village. I wish to look at the issue with reference to a story. This incident took place in 1961 in New York and it is likewise about development and conservation. At that time there was a famous building called Penn Station and the owner wanted to tear down the building for development. But many people came out and spoke against it. They wanted to preserve the building. As a result, the municipal government faced great pressure from public opinion and a committee was formed to preserve landmarks. At first the committee chose 700 landmark buildings with conservation value and engaged in conservation efforts. Now, after half a century, the number of landmark buildings that should be preserved has reached 20 000. There is a view that the number of landmark buildings chosen by the committee at first was reasonable and the standards applied were higher. But with the increase in the number of landmarks, these so-called landmarks that should be preserved now exist in great numbers, hampering the normal development of a city.

Deputy President, I have cited this example to show that if no regulation is imposed on those valuable landmarks and sites, they may be destroyed because of various kinds of development. But if there was excessive protection and regulation, there would arise a bureaucratic practice of having landmarks preserved rather than torn down, such that even some landmarks or places that do not warrant preservation are nevertheless protected. This will disturb rather than benefit the public. Deputy President, we can see this swing of the pendulum in the conservation work done by New York from one end to the other. I do not wish to see a similar situation happen in Hong Kong.

If we look at the dispute concerning Sai Wan Village, we can see that the point is the Government has not reached any agreement with the villagers with regard to including the enclave in a country park. This has incited a tremendous conflict between villagers and conservationists. I can tell the Deputy President that I think before the Government made this decision, it had not formally consulted the villagers or engaged in any meaningful dialogue with them. The result is that the villagers think that once their village is included in the country park, their right to private ownership of property and right to development will be greatly affected. Have the Government and the Secretary ever thought that besides including the land in the country park, there can be other methods to balance the rights of the villagers and the aim of conservation?

Deputy President, seen from the strictest point of view, country parks should never be inhabited. And for any place of human settlement, it should not be regarded as a country park. This is seen from the strictest point of view. It is also a basic fact and the reason why enclaves are not included in country parks in the first place. Now the Government is to override its former pledge that enclaves do not belong to any country park and it is only justified that the villagers would harbour suspicions. Hong Kong is a society that upholds the rule of law and questions like where there can be developments by the villagers and whether their development is lawful are important ones. If the villagers follow the procedures and formalities in making their applications, there is no reason why they are disallowed to carry out any development. If they are refused, the Government should give the villagers a reasonable explanation stating why the land in question cannot be developed. The Government cannot just say that all the lands should be included into the country parks and use this as a ground for not allowing any development. This is a question of priorities. The villagers have been living there for a long time and now the Government

suddenly changes the rules, and the new rules strip the villagers of their rights and no compensation is to be made as a result. This is a most unreasonable practice.

I therefore think that since Hong Kong is a capitalist society and the right to private ownership of property is one of the core values and a right protected by the Basic Law, there is no need for the Government to incite the dispute on this occasion. This is because there are many ways to achieve conservation and a sweeping approach may not necessarily have to be taken.

One of the solutions which is agreed by many Members and even the villagers themselves is the OZP. This is to have the Town Planning Board (TPB) to formulate detailed planning for all of Hong Kong and the results are then subject to consultation at a district level and to be passed. We know that there are many experts on conservation and urban planning in the TPB and they can give professional advice. The best thing about this idea is that it can achieve conservation while making land planning at the local level more flexible. This can allow delineation of parcels of land for conservation and development while not affecting the rights of the villagers.

Deputy President, the second method is to deal with the conservation issue by land exchange. When this is agreed by both the Government and the villagers, I think that it will be the best solution. There were similar examples in the past.

The third method is the suggestion made by Dr Elizabeth QUAT of the DAB, modelled on a practice adopted in the United Kingdom, that is, setting up an agency like the National Trust on ancient relics and antiquities. This National Trust in the United Kingdom was set up with government support and it manages conservation projects in the United Kingdom of various sizes while functioning in a systematic manner. Now the National Trust is the charitable organization in the United Kingdom which owns the most assets and has the largest number of members. Before the Chief Executive, LEUNG Chun-ying, ran in the election, he once said that he would like to model on the National Trust to adopt a balanced and proper practice to handle the problem of development and conservation in Hong Kong. In the Sai Wan Village incident this time around, I do not see him using this method. But, Deputy President, there are still many enclaves that we have to deal with in future. So I hope that the Government can give serious consideration to the three methods raised by me just now.

Deputy President, the last point I wish to make is that the best way to determine which land lots should be preserved and which ones should be developed is undertaking some independent and professional assessments. Each lot of land in question should be examined in this way. There should be full consideration of all ecological and environmental factors as well as human factors. Regarding development and conservation, we must know that it is not a case of one side overriding the other. But each particular case should be decided by its specific merits.

All along the conservation work in Hong Kong has been lagging behind other advanced cities. I think that now we should go much farther. The case of New York is a lesson to be learnt and Hong Kong must not repeat that mistake.

I therefore support the amendment by Mr LAU Wong-fat. Thank you, Deputy President.

**MR LEUNG KWOK-HUNG** (in Cantonese): Deputy President, what a big change and what a big change we have; these royalists are opposing the Government motion unanimously. I thought I was in the wrong parliamentary assembly.

After listening to the speech by Dr Elizabeth QUAT, honestly, I am much moved. Why did she not raised it earlier? This is a big problem. She has really presented some very sensible arguments. Mr CHAN Hak-kan made a moving speech too. It turns out that a very important tactic is hidden. I do not know if Secretary WONG Kam-sing would tell us later whether or not people from the DAB had talked with him and mentioned this point to him and when they did that.

Moreover, when this Mr LO was carrying out his construction works and as society was in an uproar, did anyone point out that heavy machines would be deployed should the excavation continue? If we do not analyse the matter from this angle, we will never see how interesting and absurd this issue is. That is to say, the problem of enclaves which has existed for a very long time. The problem is, there is a grey area in this issue of enclaves and somebody wants to dig the land and build a luxury home. Then problems arise. Honestly, all was well before that.

Three years ago, Mr WONG Kam-sing was not yet an official. At that time, someone was digging the land there and construction works were being carried out. The whole city was in an uproar. Then the Government announced that it would deal with the issue. But the question is, should the problem be handled by Secretary WONG Kam-sing or the Development Bureau? It is because the Permanent Secretary of the Development Bureau is the Chairman of the TPB. That means he can set the agenda, decide on what are and what are not to be done. In the Government, first, if anything goes wrong with planning, the responsibility will of course fall on the Development Bureau. Then who was in charge of the Development Bureau then? I can tell Members that it was really ridiculous that the person in charge was Carrie LAM, who spoke with such a righteous air today. She was aware of this problem when she was the Secretary for Development because it was three years ago.

Then what had Carrie LAM done? She is a strong fighter. But she did not do anything. As far as I can hear, she had really done nothing. This is because, first, the villagers were yelling and screaming that nobody cared for them. Second, if the Development Bureau knew that something had gone wrong in planning, would they have talked with Secretary WONG? Or taking the issue further, did it talk with the Secretary for Home Affairs? Because the Secretary for Home Affairs is in charge of the District Councils. Has the Secretary for Home Affairs heard the views expressed by the Sai Kung DC? Mr Gary FAN said with pride that he had tried hard, but his motion was voted down. Members can see that if the matter is handled by three officials, it is bound to have problems. Now many departments are in charge of one issue and there are three Policy Bureaux in the Government which are related to this issue. But if I should put it bluntly, I dare say these three bureaux will not begin to do anything unless and until the matter becomes very urgent.

I have attended the hearing given in Sai Kung. I consider the demand of the villagers reasonable. This is because if the Government has made such a stupid blunder, how can people have any confidence in it? It is because at first it was the Government which included the land in question in the country park and said that private land would not be resumed. But it is trying to resume the land now. That is to say, the pledge made in the past is now not honoured because of the needs of the country park. If the rescinding of this pledge is for the sake of public interest, it should be fine. But the question is, after the Government has



resumed the land, will it make any compensation as appropriate or is there any plan for land exchange?

But the Government has not done it, other than repeating the remarks made before. It is very simple. Things would all be fine if the Government honours its pledge. If Carrie LAM — that is, the Chief Secretary now and the former Secretary for Development — can say in public that the rights concerning the enclave in Tai Long Sai Wan, especially the rights of the some 20 villagers, will not be affected in any way because of inclusion of the enclave in the country park, then things will be fine. With reasonable expectation, people will believe in the Government. Since what the Government said before is now meaningless, we have to ask the Government to state it once again. But the Government does not want to say anything and it just says that it has already said it.

So is the Government sincere? Secretary WONG Kam-sing attended the meeting and he was scolded by Members. In the landfill issue, you were scolded by me. And now you are scolded by me again. I think if the issue must be handled by three bureaux ... I have just noticed one thing and that is, the person who is the least involved is Carrie LAM. But she is the Chief Secretary. Although this is a very minor thing, the number of people and the area affected are not too large. But it has caused such a great controversy now. Even those who support the Government are against it. People say, this is a big political crisis. But the Government thinks that there is no crisis and all that matters is to count and secure enough votes. This is really ridiculous. In the past, all that the Government had to do was to count whether it had enough votes which supported the Government, and if it had, it would then do nothing. Now what the Government is doing is to count whether it has enough votes from the opposition which support the Government and then it will do nothing. May I ask the Secretary if this is the way the Government administers Hong Kong?

Honestly, I have thought about it for a long time. If I supported the idea that people of Choi Yuen Village should be given another village in exchange, I do not think I can persuade myself to tell the some 20 villagers, "Please make do and accept it." I do not think I can ever say such things. I find myself in a dilemma now. This is because when I do anything, I must be sensible. If the Government can make compensations for land resumed in construction projects like the Express Rail and the Hong Kong-Zhuhai-Macao Bridge, how can it do nothing and allow villagers to suffer losses because of this grey area in policy

which leads to the building of a luxury home by someone and public misapprehensions?

Actually, I am not sure if the villagers there will suffer any loss because I have never been there. I do not have the time to go there for pleasure. But the question is, after they have voiced their queries, if the Government does not give a reply, it would simply not do. Now I want to come back to the point about why the whole thing has become such a big problem. The Government alone should not bear the blame. Those villagers are also at fault. This is because when a tycoon — that man surnamed LO, is he a tycoon? I think he is — when he builds a house next to yours, if you give your tacit approval and do not oppose it, then the people of Hong Kong would think that you agree with the way this rich man is developing his land. The reason is, if you think that those some 20% of undeveloped land is very important to the preservation of your existing lifestyle, then there is no reason for you not to raise objection. If someone is doing something next to you and your present lifestyle is threatened, how can you think that it is all right?

The whole question is, the policy we have has never examined issues like enclaves in the country parks. How will the Government deal with these issues? What should be done with each piece of land? I would think we should ... I do not know what Mr CHAN Hak-kan was talking about, that is, about a certain fund; I think we should set up a committee with transparency. The TPB under the Development Bureau should not be in charge of these matters anymore. The TPB cannot undertake many tasks indefinitely. The Government should set out and announce the criteria such as A, B, C, D, E, F, G, and so on, and a non-government organization should be given charge of these matters. This must be an independent committee no matter if its members are appointed by the Government or not. This applies also to the incident concerning the issue of TV licences. We oppose LEUNG Chun-ying for his dictatorial rule because when the Government appoints ... If there are open and transparent criteria, we can take the scores and those who object may point out that this applicant should not be issued a licence because he fails to fulfil criteria A and G. Now we do not have such criteria. Then how can WONG Kam-sing not land himself in trouble? This is not his responsibility. When he is sitting here, he is just wasting his time.

Why have things come to this pass? The root of the problem is both the Government and the idea harboured by many indigenous inhabitants that the land

they own can be turned into real estate opportunities. If the Government allows some people to do this while not allowing other people to do so, or if those powerful developers can do so while the villagers cannot do it, then of course, there will be reactions. We cannot blame the villagers. I have no idea as to what the villagers want. I do not know how to guess what is in the mind of other people. But when I see the villagers moaning and crying today, complaining that they cannot build homestay residences nor sell instant noodles and tea with milk, I am really furious. I will never believe that selling tea with milk will cause any irreversible environmental disaster to Sai Wan, right?

I wish to mention one point. This Council is ridiculous. If the pro-establishment camp is sincere about it, I think it has finally tasted the bitterness of it. The bitterness is if there were no filibustering and if everything were not overturned and started all over again, then it would be useless no matter how hard they try to explain things. Given these circumstances, the pro-establishment camp can only engage in empty talk. They can speak out that they support the villagers, that they are sincere about it, and that Long Hair is a hypocrite. But what is the use of all these? Once the motion is put to the vote and passed, who will care about you? It shows that this Council does not have the ability to monitor the Government and the Government cannot function effectively. This is basically the situation now. This Government does not have to account itself to the people and all it cares is to secure enough votes. It does not care whether or not the colour of the votes is red, black or orange. It does not matter. It will do provided that there is a lot of them. So this applies to the issue we are discussing now and that also applies to the issue of landfills. The Government can never solve this problem.

The way I see it is: If we really want to stop the Government, there must be enough votes so that WONG Kam-sing will have to go home and ponder over his mistake. It is only with this that there can be a real solution. I do not know what the voting result will be. I find it most regrettable that many green people think that things will be fine if the requirements of environmental protection can be met and all other things can be left to the Government. But the question is, the Government does not want to do it. Secretary, would you please respond to this question later, if you have enough votes and the motion is passed, first, do you have the guts and calibre to stand out in LEUNG Chun-ying's cabinet and tell your boss that you have been scolded in the Legislative Council and that both Members from the pro-establishment camp or otherwise have raised many points

worth noting? If you cannot get a majority vote and the motion fails to pass, do you have the guts to ask him what should be done?

Or for example, even if the Government managed to get the majority of votes, but a huge public uproar is caused, will you ask him to instruct Paul CHAN of the Development Bureau to give a pledge or make some real co-ordination efforts in the Sai Wan incident? Is the Government so hypocritical that it will change face when it comes across problems? This is the worst thing I know of. I remember that when my mother watched a movie like this, she would break into a tirade of expletives. Buddy, when you need votes, you will raise shameless demands and all that matters is whether you can get the support you want, no matter if your surname is CHEUNG or LEUNG. Secretary WONG Kam-sing, you have to respond to this question later. From beginning to end, have the DAB or those political groups or Members who object to this motion ever told the Government those issues on which they have just spoken with agitation and heightened emotion? If they have not, then I can tell you, they are a disorderly band, and people who come together for no good cause will not unite.

In order to manifest my stand on this issue, I will not vote on it today. I cannot think of any way to persuade myself that the villagers have been making unreasonable arguments. However, the villagers do have a share of the blame in this because they allowed other people to build a house there. They took the kiss of death because the other people could suspect that they agreed to this kind of development. My view is that everyone should be given the same treatment. When people in Choi Yuen Village could get compensation, the people of Sai Wan should also be compensated. Why should they be left out in the cold? Will your pledge be honoured? I think you really have to make a phone call and tell Paul CHAN to come here to explain and make another statement. This sounds more appropriate.

Thank you, Deputy President.

**MR ALBERT CHAN** (in Cantonese): Deputy President, "Long Hair" drew a comparison between Tai Long Sai Wan (Sai Wan) and Choi Yuen Tsuen just now. In fact, there are a lot of differences between them in nature in respect of planning, land resumption, development, and so on. I will further explain to him in detail granting the opportunity.

Deputy President, as to the question of whether I should support the Government and vote against Dr LAU Wong-fat's motion today, I actually feel that I am in a dilemma. The reason is very simple. Because the Government is using an unjust means and act to counter another unjust and unreasonable act. In view of Mr LO's construction works, his occupation of Government land and felling of a large number of trees, the Government considered it necessary to put across to the whole community a message particularly relating to the country parks and to bring these acts to a halt. Subsequently, the Government manifested its intention by incorporating the enclave at Sai Wan into the country park. But such manifestation is in itself brutal and high-handed. It will lead to many unjust results and violate many principles of procedural justice at the same time.

Many people may not know very well the CPO and the town planning procedures and therefore, many people support the Government's proposal to incorporate the Sai Wan Village into the country park. However, I must point out the consequences of this act. A week ago I already explained to the Secretary some of my arguments in detail and I will talk about them later. To rectify this problem, I hope that the Secretary will first give an instruction to his colleagues and subordinates, telling them that they must not enforce the CPO at this village, or else I will definitely strongly condemn the injustice involved. Second, the Government must expeditiously introduce amendments to the CPO to the effect that the Secretary or other authorized persons are empowered to designate certain places within a country park to be villages and that certain acts of the villagers should not be subject to the regulation of the CPO. I am talking about the acts of the villagers, not the vetting and approval of development projects.

First, if a village is included as part of the area under the regulation of the CPO, the acts of the villagers will be subject to regulation, and compared with the regulation generally faced by other people affected by village-type development, what differences are there between them? I can tell dozens of such differences as far as I know, and all of them violate basic human rights. The pan-democratic Members should read the CPO clearly to find out about the harsh control in contravention of basic human rights and the unreasonable regulation imposed therein.

Villagers living within the country parks who wish to hold a public meeting are required to submit an application to the Authority and pay \$520 for a permit; they also have to pay \$520 for a permit for making a public speech and holding

sporting competitions; and they have to pay \$1,330 for a permit for selling or letting on hire any commodity or article. They are required to submit an application for holding any fund-raising event or general activities and pay \$520 for a permit subject to the approval of the application. They need to pay \$520 for a permit for carrying on any activity for the purpose of, or incidental to, any business; and a permit at a cost of \$250 is also required for displaying any sign, notice, poster, banner or advertisement. Besides, the operation of any remote control model aeroplane or remote control model vehicle is prohibited, and it is even an offence for any person who is not a member of the village to ride on a bicycle in the village. For instance, if an indigenous villager in the New Territories who has emigrated overseas returns to his village and rides on a bicycle, he will be acting against the law, and I will commit an offence alike if I ride on a bicycle to visit relatives and friends in the village. There is another point which is very serious and that is, it is against the law for a person under the influence of drugs to be in the country park. It is not against law for a person under the influence of drugs to be in other parts of Hong Kong, but villagers who live within the country parks commit an offence if they are under the influence of drugs after taking medicine. Also, non-residents of the village who put up for the night in a country park will break the law for lighting or using any fire.

What I have just mentioned are instances of inappropriate regulation on the villagers that can be found in the CPO which, I think, constitute violation of the basic human rights. This is entirely unreasonable. I would like to ask the pan-democrats whether they are supportive of such control and regulation on the villagers who live in the country parks? It is against the law even to display a poster! What human right is there to speak of? Having said that, I still have to vote against this motion of "Uncle Fat" in tears because what LO Lin-shing has done in this case is most outrageous. The series of acts done by him are eliminating or destroying the natural ecology of the country park. Had the Government not taken these brutal actions to stop him ... I generally do not support the Government, but these acts of LO Lin-shing have set a very bad precedent for the villages where many indigenous villagers live.

Moreover, I would like to talk about the absurdity and irrationality of the entire planning procedure as I think many Members may not know them too well. The Government started the overall planning in 1991 and it has been more than two decades now. The Government's decision is to gradually designate some villages within country parks in the New Territories as Development Permission Areas and then draw up draft plans accordingly. In fact, the relevant planning

has been implemented gradually in the New Territories and I think almost 80% or 90% of it has been completed over the past two decades or so. After drawing up the draft plan, the outline zoning plan (OZP) will be formulated and upon the completion of the OZP, the village boundary will be designated for the village. There are column 1 and column 2 which designate the land uses, such as designating this place here for residences and the place there as the residents' site, and so on. For uses such as columbarian facilities or guesthouses, applications will have to be submitted under column 2.

The Government has regulated all the villages effectively through the town planning legislation. But it is necessary to go through a process — this process has also been gone through in the case of Sai Wan — In August 2010, the Government incorporated Sai Wan into the draft plan. Once a piece of land is incorporated into the draft plan, it will be subject to the regulation of the town planning legislation, which means that prior approval has to be sought for many things. "Long Hair" said earlier that Carrie LAM has done nothing. The information that he has got may not be very comprehensive. LO Lin-shing took a series of destructive actions before August 2010 and at the same time, the Government drew up a draft plan in August 2010, and this area has since been brought under the regulation of the Town Planning Ordinance (TPO). The actions taken before approval are another matter, but the Government did react very quickly. However, according to the town planning procedure, in the three years after the formulation of the draft plan, the Government is required to conduct consultation before the relevant planning procedure can be completed.

Over the past two decades or so, the Government has completed the planning procedure for all the sites for which a draft plan has been formulated, and village planning work has also been carried out in these areas. I have looked up a lot of information and I have engaged in district work for many years. Never have I seen the Government not completing the relevant planning work at a village after the formulation of a draft plan. The Secretary may perhaps correct me on this point. But the TPO provides that the draft plan will lapse if no action is taken within three years and in this case, within three years after August 2010 when the site was incorporated into the draft plan, and if no extension is granted after three years. However, this is not consistent with our understanding and expectation of the procedure because we consider that as the draft plan drawn up by the Government was approved by the Chief Executive in Council, this is considered an undertaking. For this reason, I think "Uncle Fat" may not necessarily lose in his application for a judicial review.

The problem is that over the past two decades or so — from 1991 to 2013 — it has never happened that the Government did not formulate a OZP after drawing up the draft plan. This is what the Government is required to do in order to complete the relevant procedure. This is our understanding and a requirement of the TPO. But now, this draft plan has, all of a sudden, lapsed because the three-year period has expired, and the Government then invoked the harsh CPO to designate the relevant site as a village. I think this is not the intention of the formulation of the draft plan back then; nor is this the expected result of the procedure as we understood it when this ordinance was enacted in 1991. Therefore, from the perspective of town planning procedure and the effects of the CPO, what is happening to Sai Wan now is absolutely not an appropriate, reasonable and just outcome.

Yet, throwing weight behind Dr LAU Wong-fat's motion will lead to another unjust and unreasonable situation, giving the impression that money is all powerful and one can achieve anything by acting arbitrarily and unreasonably. In this incident, both sides are wrong, and they are both unjust. So, if "Long Hair" will abstain in the vote and leave the Chamber, that may as well be a solution. But I think the thrust of this matter is that the Government must conduct a review and it must look into the blunders and dereliction of duty in respect of land management. This concerns not only the Environment Bureau alone, for it also involves the LandsD, the Development Bureau as well as other departments. Therefore, I must clearly point out — especially to the pan-democratic Members — I have prepared a table here. I will show it to Members later, so that they will understand more about why the CPO is harsh and unreasonable.

Furthermore, Deputy President, let us take a look at the OZP. Over the years, many enclaves ... Sai Wan Village was incorporated into the enclave of the country park back in 2010, but the Government now wants to scrap everything and start from scratch by overturning the decision made three years ago. Secretary, do you get it? The Government has been wavering and this is unreasonable. The Government should give the people reasonable expectation. The Government should adhere to principles and procedures in its work, and procedures are most important. However, the Government is making use of the grey area to distort the town planning procedure and the spirit of the relevant legislation. This is executive manipulation by the Government because the CPO is enforced by government departments and the Chairman of the Town Planning Board is the Permanent Secretary for Development. The Government



deliberately did not apply for an extension and did not handle that draft plan upon the expiry of the three-year period (three years and eight months from 2010), making the plan disappear automatically. This is already an unjust act, ungentlemanly conduct, and to put it more bluntly, a shameless act. Over the past two decades or so, the Government has complied with the procedure but now, it turns out that one is shameless and the other is an unscrupulous businessman — it can be said so — on one side it is an unscrupulous businessman and on the other side it is a shameless government, and there are also many problems with them. So, irrespective of what decision we are going to make today, it will not be a reasonable and just decision anyway. Disregarding whether or not this motion is passed today, this example still fully reflects that the entire town planning procedure is extremely ugly and erroneous.

I have been following up town planning for more than two decades — as Mr Abraham SHEK knows very clearly, I have followed up these issues for years — If I have to cite the worst example, I can tell Members that this example that we are discussing today is the ugliest thing that has ever happened in the procedure and policy making process since the enactment of the TPO. From this incident we have learnt a valuable lesson. The Panel on Development may need to further study and review this matter in future, in order to identify the areas that can be improved in relation to the procedure and practices. Having said that, I hope that the Secretary will expeditiously introduce administrative and legislative amendments in relation to the regulation of the CPO on villages and come to the Legislative Council to give us an appropriate account. If legislative amendments are necessary, the Government should expeditiously propose reasonable amendments, so that the villagers living within the country parks will not be affected by decisions which are unreasonable and against human rights.*(The buzzer sounded)*

**DEPUTY PRESIDENT** (in Cantonese): Mr CHAN, your speaking time is up.

**MR ABRAHAM SHEK** (in Cantonese): Deputy President, I usually seldom agree with the words of Mr Albert CHAN but having listened to his speech today, I think his remarks are like those made by a Member of quality. In the 15 minutes of his speech, he had spoken from the bottom of his heart for at least 14 minutes and 30 seconds.

Secretary, he said that what the Government has done this time around is shameless. He was right in making this criticism. Why? He has given you a lesson. He has taught you what town planning is and what justice is. Both people in the New Territories and other citizens of Hong Kong should enjoy this right all the same. He made very good points in taking the Democratic Party to task. Members who oppose this resolution proposed by "Brother Fat" really have no reason to do so. According to them, the matter seems to be easy because as many people are fond of the natural scenery of Tai Long Sai Wan, therefore, the land there has to be resumed. I very much like the environment of Government House, too. Could it be that I can ask tens of thousand people to join me in sending an email asking the Government to resume the land there? Why is it that the Government could make compensation for the resumption of King Yin Lei and the Ho Tung Mansion on the Peak but refuse to make compensation to villagers whose land is resumed in this case now? Why can the Government be so despotic and ruthless to the villagers that it is not treating the villagers as human beings? Article 40 of the Basic Law has provided for this right of the villagers.

Deputy President, Ms Cyd HO said that she trusted the Government. This is the first time that I have heard her say that she trusts the Government. She said that the Government would protect them. As Mr Albert CHAN said earlier, the CPO cannot protect them. They have the right to enjoy the land there and now, the Government wants to resume the land, meaning that they will lose this right. Secretary, please look up the CPO before you give a reply. When he rose to speak earlier, he did not respond to the points raised by "Uncle Fat" on the Basic Law and human rights. He let Ms Cyd HO answer on his behalf, but what she said was far from clear. She said that those rights are under protection, but we do not see this in the Basic Law. Even if the CPO can protect them, which is more important, the CPO or the Basic Law? All local laws are inferior to Article 40 of the Basic Law and this Article has given this right to the indigenous villagers in the New Territories. Mr WU Chi-wai has mentioned small houses, and small houses are also included.

Secretary, as you have the support of Members in the democratic camp, you can, therefore, come forth boldly to say that the land has to be resumed. This is not what an executive-led Government should do. One day when you come to us to seek our assistance, we will tell you that we uphold justice. As you do not uphold justice today, we will not support you, and we will support "Uncle Fat". But much to our regret, while Mr Albert CHAN expressed his

support for "Uncle Fat" in his speech earlier and hurled fierce criticisms at you, Secretary, it nevertheless turns out that he will not vote in support of "Uncle Fat". Like the pro-establishment camp criticized by him, he is saying one thing but doing quite another. He is really becoming more and more like the pro-establishment camp. No wonder many colleagues in the opposition camp have lent a helping hand to the Government today.

Deputy President, many people have sent me emails and a large number of them are foreigners. I wish to take this opportunity to express my views.

**MR ABRAHAM SHEK:** Deputy President, the dignity of the legislature and the executive-legislature relationship are set today to the lowest level as the Government's proposal to incorporate Tai Long Sai Wan into Sai Kung East Country Park will be passed with the backing of pan-democratic colleagues. This is ironic, really ironic, as on 13 October 2010, the amendment proposed by the former pan-democratic legislator, Miss Tanya CHAN of the Civic Party, to repeal the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 was agreed by a majority of the Legislative Council on the grounds of upholding the dignity of the legislature and opposing executive hegemony, among other things. Ms Cyd HO also talked about this, but she forgives you and is going to vote for you. It is even more ironic — sometimes life changes — that at that time, my colleague, Dr LAU Wong-fat, mover of today's resolution, opposed Miss Tanya CHAN's resolution, while the pan-democratic legislators supported it.

Obviously, the shoe is now on the other foot. The Administration has enough supporting votes from the pan-democratic parties to render Dr LAU Wong-fat's efforts futile in and off this Chamber. The question is whether the Legislative Council has the power to repeal an order under the Country Parks Ordinance (Cap. 208) (CPO). And Secretary, the answer is very clear: "NO". Under Article 73 of the Basic Law, the Legislative Council is empowered "to enact, amend or repeal laws in accordance with ... legal procedures". Apparently, legislative power belongs solely to the Legislative Council. Separation of powers among the legislature, the executive and the Judiciary is an essential cornerstone of "one country, two systems". It is disappointing that the Government has adamantly disregarded Legislative Council's constitutional role and the major principles of checks and balances and separation of powers, particularly in light of the fact that the Legal Adviser has confirmed the Legislative Council's power to repeal an order made under section 14 of the CPO.

Deputy President, if the truth has not changed over the past three years, our Honourable pan-democratic colleagues should cast their votes in support of Dr LAU Wong-fat's resolution in order to be consistent and uphold the rule of law, as they have long claimed to do, as in the case of Ricky WONG, the Hong Kong Television licensing issue. The Honourable pan-democratic colleagues may argue that they support the Government not because they agree with the Government's rejection of the Legislative Council's power to amend or repeal the Amendment Order, but because of the protection the Order can bring to the country parks. I have strong reservations about this explanation. Is it being used to counter the Government's assertion that the Legislative Council does not have the power to amend or repeal the Amendment Order? Does it consolidate the hegemony of the executive over the legislature, Secretary? Probably you do not know about this because you are only in charge of the environment. You should consult the Secretary for Justice. If truth and principles can be traded off, are they still truth and principles? Is it justice?

Deputy President, our much-cherished private property rights are also at stake. Dr LAU Wong-fat and some deputations from rural committees have pointed out that in the 1970s, when the then Hong Kong Government started to designate country parks, to avoid interfering with village life and to respect private property ownership — then they did not even have Article 40 of the present Basic Law — the then Government pledged that private land would not be included in country parks and that the country park boundaries would be kept at a certain distance (300 ft) from private land. What are you doing now? You are completely overturning this understanding. As such, the Administration's current proposal to incorporate Sai Wan Village into the Sai Kung East Country Park is a breach of its pledges and constitutes a confiscation of private property.

There is an argument that Dr LAU Wong-fat and the villagers represent only the Heung Yee Kuk and the other areas and that of the indigenous people of the New Territories, whose interests are at odds with the larger public interest. They did not ask for it. The Basic Law gives it to them. But this argument is lame, as I just said. Article 105 of the Basic Law stipulates that "The Hong Kong Special Administrative Region shall, in accordance with the law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property." That is why you do not have the means to move the 何東大宅, but you are moving those people who do not have this clout. In other words, every single person's private property rights must be protected and respected,

regardless of whether a person belongs to the majority or not. Furthermore, compared with the 11 papers revealed by the Heung Yee Kuk earlier in supporting their claim, the executive order was a summary decision in the absence of comprehensive communications and consultations with the affected villagers about the abrupt change.

If the Administration itself could not make head or tail of what exactly the policy on enclaves is, how could it convince the indigenous people? Maybe the law does not bar the Government from carrying out its "good" intention, but such a good act is by no means people-oriented, and once again raises the spectre of executive hegemony.

Deputy President, I am very concerned about the indiscriminate use of the negative vetting procedure, as in the case of the stamp duties which the Government applied before we actually passed the law. This is not a good thing which happened to the Legislative Council recently. In fact, I have reiterated on many occasions, that the negative vetting procedure is ill-advised because it is tantamount to creating *fait accompli*, which could bring about irreversible consequences given that under this procedure, a piece of legislation immediately comes into effect once gazetted, and continues to operate unless a resolution to amend it is passed and gazetted. From the milk powder saga to the "3Ds" (SSD, BSD and DSD) to the Country Parks (Designation) (Consolidation) (Amendment) Order we are currently debating, the Administration has opted for Executive Orders to invoke the negative vetting procedure in order to press ahead with controversial and sensitive proposals. No wonder every issue that this Government tries to move to the Legislative Council has become an issue of governance. Should we not be concerned that the Administration's repeated use of this procedure masks a hidden agenda to extend its political clout? Is it not lamentable that the Government's response is that members of the public can resort to litigation if they disagree with government decisions? No. Court decision should be the last resort, and the Government and the legislature should work together to iron out problems, not to create problems for the Court, as the former Chief Justice has actually talked about it.

Deputy President, the greatest threat to individual rights always comes from the Government. Is environmental protection so important and noble a cause that even hamstringing the Legislative Council and disdaining our core value of private property rights can be accepted in exchange? Secretary, you have children and you will have grandchildren. You had better protect their

rights as I am standing here to protect the right of the Hong Kong citizens, as Dr LAU Wong-fat is now doing. This shows the absolute height of contempt for justice which you are now doing. I call on our Honourable colleagues to cast their votes to support Dr LAU Wong-fat's motion for common sense and justice.

Thank you.

**MR IP KIN-YUEN** (in Cantonese): Deputy President, as we discuss this topic today, I wish to thank our colleagues, such as Mr WU Chi-wai who has decorated this place behind me with such a beautiful backdrop. We have to spend so long a time here today and as it is such a nice day today, it would be great if we could move this meeting to Tai Long Sai Wan (Sai Wan), so that we could enjoy the natural scenery there.

A few months ago I did go to Sai Wan with some colleagues in this Chamber to enjoy the sunshine and the beach there. Mr Charles Peter MOK, I think you still recall this photograph, as you are in it too. Sai Wan has indeed made a lot of differences to our life.

Sai Wan is a very famous beach in Hong Kong, and it is no different from many other beautiful beaches. In Sai Kung, there are the so-called "four beaches and Sharp Peak", which are major outing spots well-liked by many mountain-goers and hikers. These places are not only popular among Hong Kong people, as their reputation has also attracted visits by many foreigners living or travelling in Hong Kong. The best known visitor is perhaps Sir Murray MacLEHOSE who had served for the longest term as the Governor of Hong Kong. After a trip to Sai Wan for a swim, he said in a television programme that it is the most beautiful beach in Hong Kong.

Sai Wan in Hong Kong is gorgeous. We know that it is a sparsely populated place with a very quiet environment. A long time ago there was a church-run primary school named "海星學校" (Star of the Sea School) in Sai Wan. Shortly after the War, there were three classes in the school with 30 students in total, and it was a small village school. Villagers back then lived on fishing or farming and the children were always seen following the grown-ups to fish or to work on the farmland. Later, the villagers moved away. Some might move to the urban areas and as the number of students dropped, there was a

shortage of students, and there were only two students in the end. This Star of the Sea School eventually ceased operation with honour in 1992.

Sai Wan has a most tranquil environment which enables it to become a habitat for different species in nature and a rest place for burnt-out Hong Kong people. It is a relaxing, peaceful and calm place to go. But some time ago, we suddenly saw from a news report on the television that LO Lin-shing, Chairman of the listed Mongolia Energy Corporation Limited, carried out unauthorized excavation works to build a private garden in the enclave at Sai Wan in 2010. This incident aroused extensive and grave concern. The public generally expects the Government to enhance the protection of our country parks and also the enclaves in the country parks. In the 2010-2011 Policy Address, the Government undertook that the country park enclaves will be included into country parks or their proper uses will be determined through the statutory planning procedure, in order to meet conservation and social development needs.

Subsequently, after an assessment based on the principles and criteria for designation of country parks, the Administration tabled the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 (the Amendment Order) to the Legislative Council, confirming that the first batch of three country park enclaves at Sai Wan, Kam Shan and Yuen Tun will be included into the country parks concerned, the control and management of which will be vested in the Director of Agriculture, Fisheries and Conservation.

Of these three enclaves, only the one at Sai Wai has aroused extensive controversies because the other two sites are Government land. To the villagers, the Government's proposal has infringed on their traditional and land rights and limited the development potentials of the localities. They hold that this is *de facto* confiscation of the private property of villagers and therefore, they have put up strong opposition to the proposal. Many colleagues have advanced different arguments to refute this reason. To put it simply, the Amendment Order actually does not mean to gobble up the private property of the people; nor does it mean to take away or confiscate their property. The public can still put up these requests to the Government in accordance with the established legislation and procedures and submit applications for developments compatible with the surrounding environment.

In this connection, the Hong Kong Professional Teachers' Union that I represent and myself support the Amendment Order. We consider that as a

famous scenic spot with picturesque sceneries, Sai Wan should not be damaged. The Amendment Order can protect and conserve the environment of Sai Wan against development that is not compatible with the environment which would otherwise destroy the beautiful natural sceneries there.

Let me stress that the purpose is to prevent incompatible development — incompatible development. Think about this: If on this side of the beach the scenery is breathtaking but high-rise buildings are closely packed or developments or lighting that are virtually eyesores can be found nearby, one would have a feeling of absolute incongruity, and this would certainly ruin the natural landscape of Sai Wan, whereas this natural landscape is a wealth of the nature that belongs to all Hong Kong people.

Deputy President, when the Country Parks Ordinance was first enacted, the objective was to designate country parks for public recreation and conservation purposes. The enclaves were not included in the map of the country parks back then mainly because these areas were primarily rural villages and used as farmland, hence they could co-exist with the beautiful environment of the country parks harmoniously. So, there was a reason for these areas to be designated as enclaves back then. However, the situation now is very different. What is happening now is that some developers are carrying out development excessively in the country park enclaves for financial, private and even selfish reasons. This has seriously damaged the natural scenery of the country parks, running counter to the objective of designating country parks.

So, there are already changes in the current situation, and it is our job to make legislation that meets the actual circumstances. I, therefore, oppose the resolution of Dr LAU Wong-fat because his amendment seeks to repeal section 3(2) of the Amendment Order proposed by the Government, which means excising the enclave at Sai Wan from the country park.

Deputy President, I am the representative of the education sector. I know that many secondary school teachers like to take their students to Sai Wan for outing and site surveys. They like to go there because it is quite difficult to get there, and it is precisely because it is not easily accessible that the place is better protected. From the angle of environmental protection education, the woodland and streams at Sai Wan have high ecological value, and we can find protected plants as well as endangered and rare animals there. What is more, Sai Wan is a



place with little light pollution in Hong Kong. Students who go there will not only be thrilled by the beautiful natural sceneries there, but they will also be prompted to reflect on the importance of conserving the natural sceneries of Hong Kong.

I would like to share with Members the pictures that I have with me now. This picture was taken when students and teachers of a secondary school in Hong Kong were having an outing, enjoying hiking and conducting a site survey at Sai Wan. Members can see how excited they were, as it is such a beautiful place. I felt just the same when I was there but I am a person of a more reserved character, so I did not jump up. But these students were all jumping up, all because the nature does make everyone happy. Many Liberal Studies and Geography teachers would take students there for an outing.

I very much wish to share with Members another picture. Members can see that there is a campfire down below and some star trails up in the sky. It was taken in Sai Wan, too. There has to be a place with very, very little light pollution or even close to having no such pollution at all for a picture like this to be taken with necessary adjustments made to your camera and to the aperture, the shutter, and so on. Think about this: If students camp out there for a night and when they see this view and take such a picture, will they not feel excited? I think they must feel very excited. But if they find skyscrapers behind them and there is no scenery to speak of or nothing for them to take picture of, will they think that what we are doing today — If we endorse a different decision which will deprive them of this wealth of the nature — To them, will we not be sinners?

We do hope that our next generation and even ourselves can continue to enjoy the tranquility and peace of Sai Wan. If we lose this bridgehead of the Sai Wan enclave and if the Government cannot protect this popular spot in the rural area, the other enclaves may fall in succession. This is absolutely not a blessing for Hong Kong. This is absolutely not what Hong Kong people would wish to see; nor is this a responsible thing to do for the next generation.

Therefore, while I do respect Dr LAU Wong-fat, I must oppose his resolution. I urge the Government to expeditiously and properly handle the other remaining enclaves and announce a timetable and the relevant arrangements. We hope that not only our next generation, but also many more

generations to come, can continue to enjoy a beautiful environment, including the entire back garden of Hong Kong in Sai Kung.

Thank you. I so submit.

**MR WONG YUK-MAN** (in Cantonese): Deputy President, we are to pass the resolution today to incorporate the enclaves of the country parks located in Kam Shan and Tai Long Sai Wan (Sai Wan) into respective country parks. Dr LAU Wong-fat, who is also the Chairman of the New Territories Heung Yee Kuk (HYK), has proposed an amendment to exclude Sai Wan from the inclusion, and this has aroused heated discussion in society. Recently, my office has received an avalanche of emails requesting me to vote against the amendment. The preference of public opinions and the mass media is crystal clear in this incident.

Three years ago, the Chairman of a listed company, Mongolia Energy Corporation Limited, Simon LO Lin-shing, bought a site secretly in Sai Wan, Sai Kung at a price of \$16 million. He then used heavy works machinery to level the forest, cultivate pastures and to build an artificial beach and a detached luxurious residence, destroying the landscape and ecology there. When the former British-Hong Kong Government delineated the scope of country parks, villages were found scattered in some sites in the New Territories and the land interests involved were complicated. For these reasons, the authorities did not incorporate all the sites into the country parks and made certain sites enclaves of country parks. However, these enclaves were not subject to protection, leaving a loophole for wealthy businessmen like Simon LO to carry out excavation at the sites. The HYK then stated strongly that the former British-Hong Kong Government had promised not to include sites with inhabitants into country parks, and that the SAR Government had now failed to keep the promise.

Country park enclaves are sites that are adjacent to or surrounded by country parks, but they are not part of the country parks. Some of these sites include Government land and private land, which cannot be used for building small houses. There 77 sites belong to this group. In fact, these sites are inseparable from country parks, no different from the sites within country parks.

Back then, many members of social movements, conservationists and environmentalists brandished the banner of "protecting the ecology and landscape" and "defending Tai Long Sai Wan" to oppose the works carried out by

Simon LO. At that time, property prices were high and even the middle class and the professionals had complained to Donald TSANG, the Chief Executive at the time, about the difficulty to purchase their own homes. The works carried out by the wealthy businessman had thus hit a nerve of the people of Hong Kong. Adding to the serious disparity between the rich and the poor in society, the works had naturally provoked public anger. The Government then incorporated Sai Wan into the Development Permission Area (DPA) Plan within a month, and the Town Planning Board designated the site as "unspecified area" and imposed a three-year development prohibition on the site. It was only through those arrangements that Sai Wan was protected from further damage arising from the works. At the same time, the Government announced that enclaves would be incorporated into country parks or designated proper uses by statutory plans.

Later, an assessment by the Agriculture, Fisheries and Conservation Department (AFCD) considered that the biodiversity and species rarity of Sai Wan was not of high value and the overall conservation value of the site was not remarkable. However, Sai Wan had been elected by the public as one of the Hong Kong Best Ten Scenic Sites. Sai Wan beach, the natural stream course and Sze Dip Tam, and so on, form a beautiful landscape, and its location is inseparable from the Sai Kung East Country Park. Moreover, it is a popular place visited by the public for hiking, camping and nature appreciation. Since the recreation potential of the enclave matched with the environment of the country park, the AFCD recommended the incorporation of about 16 hectares of the site into the country park.

In early September, the Secretary for Development, Paul CHAN, queried in his blog whether the development of country parks was utterly impracticable, hinting that sites of country parks could be used for housing construction. As a result, LAM Chiu-ying, a LEUNG's Fan, reprimanded Paul CHAN as suffering from a "cancer cell of thought". It was really entertaining. But this "cancer cell of thought" is still afflicting damage on the Government.

Country parks are the public assets shared by all the people of Hong Kong, and they allow Hong Kong people to get in touch with and enjoy the nature during their leisure time. They are very important. The culture commentator, Wan CHIN, pointed out that country parks are the overall Feng Shui forest of Hong Kong people, protecting the water and soil of villages and the repository of ecology, so they are very precious.

Many wealthy people are eyeing the rural sites in the peripheral areas of country parks. Apart from Simon LO, Gordon WU, the Vice-President of the Real Estate Developers' Association of Hong Kong and the Chairman of Hopewell Holdings Limited, had pointed out in a radio programme that Hong Kong was a densely populated city with many people living in "caged homes" and "sub-divided units", so reserving 40% to 50% of land for rearing animals was not something Hong Kong should be proud of but an unrealistic and stupid practice. In other words, he also supports developing country park enclaves.

I cannot but point out that many businessmen and wealthy people in Hong Kong are hoarding a large number of vacant flats. In the year before last, a company received a sum of \$90 million from rates rebate. The rate rebate was capped at \$10,000 at the time, which meant that the company was hoarding 9 000 vacant flats. It is really alarming. Moreover, a numerous number of companies had received less than \$90 million. The reason for wealthy people and real estate developers to hoard a large number of vacant flats is to wait for the opportunity to sell the flats when property prices rise, so they will continue to exploit the middle class in Hong Kong. In the face of the hoarding of land and a large number of vacant flats, what does Gordon WU think? When hundreds of thousands of households in poverty are forced to live in and endure the rising rental of "caged homes" and "sub-divided units", while a large number of flats in the Mid-levels or luxurious flats are left vacant, is it not unrealistic and stupid, too?

We are not being hostile to the rich. But since some people are being heartless despite being wealthy, we can say nothing. His remark sounds reasonable, stating that nearly 40% of our land is left vacant for use as country parks but not for the construction of housing while many people have to live in "caged homes" and "sub-divided flats". His remark seems to be logical, but it is indeed a fallacy.

Gordon WU had also pointed out that people opposing the development of country parks were in the minority and the Government should not regard every dissenting view as the golden rule. Had that been the case, it would be great, for we often oppose the Government. However, the Government only treats us as thieves, so they will in no way regard our remarks as the golden rule? It is only a matter of different standards. Gordon WU also said that the authorities should base their actions on the interest of the general public. He is right that the interest of the general public should form the basis of consideration, but the

Government has not done so. We have the conviction that Hong Kong, despite being a small city, should protect the natural landscape or natural environment of Hong Kong, which does not have much left. This conviction originates from the perseverance in maintaining a balanced life.

Regarding the incorporation of sites like Kam Shan and Sai Wan, and so on, into country parks by the SAR Government to protect the natural environment of the places and ensure that the natural environment will not be developed by gluttonous businessmen arbitrarily, we will surely support it. We also hope that upon the passage of the resolution, the SAR Government will understand the aspiration of Hong Kong people for the retention of country parks and that it will dismiss the fallacious idea of developing sites in country parks.

The decision of incorporating Sai Wan into country parks has antagonized many villagers of Sai Wan. They place advertisements on newspapers to criticize the Government for seizing private property, stating that restrictions on development under the Country Park Ordinance will indirectly make villages become dilapidated, create poverty and cause inconvenience in transport, which will result in the fading out of traditional humanities, cultures and customs, so villages will be put on the death track and die slowly. The most important point is that the decision will jeopardize the right of landowners in developing the land and reducing the value of land to "zero". Villagers demand the Government to compensate their loss through land exchange and land acquisition.

In recent years, the rural sector camp has started to have conflicts with the Government. One of the examples is their opposition to the demolition of unauthorized structures of small houses by the Development Bureau. However, I think that the village force, be it the villagers of the New Territories or the rural sector camp, is after all a significant group of Hong Kong. They have to protect their homes and protect their interests and rights, which can hardly be blamed. From the perspective of expressing opposition, we are glad to see that they will confront the Government for their own interests and rights. But please do not adopt double standards. When Simon LO constructed a house or villa on the site, they raised no objection. Thus, I think they are applying double standards.

"Uncle Fat" is now in the Chamber. Indeed, he has no option but to propose this amendment resolution. As Chairman of the HYK, he can in no way allow the Government to do this. We fully understand this. He is only doing what he should. However, from the standpoint of the interests of all the people

of Hong Kong, it is impossible for us to support the amendment resolution proposed by him — I knew him before I became a Member; I have known him for several decades and he is an elder person I hold in great respect. As I will not support his amendment, I am caught in a dilemma. I have already mentioned this to "Uncle Fat" and my position is very clear. Nonetheless, I fully understand the tenacity of Dr LAU Wong-fat, as the leader of the HYK, in this incident.

Some time ago, "Uncle Fat" led over hundred villagers to hero-worship and oppose the Government. He has also stated that if his amendment is voted down, he will apply for judicial review. We can understand this and I think it is what he should do. The HYK and the 27 Rural Committees under the HYK advertised on the newspaper yesterday, stating that they were the "forerunners of environmental protection", and condemned the practice of the Government and urged the Government to support the amendment resolution of Dr LAU Wong-fat. However, in the present case, the Government has made the decision and Dr LAU Wong-fat has only proposed an amendment resolution. In that case, how would they urge the Government to support the amendment resolution from Dr LAU Wong-fat? In fact, they should be requesting the Government to withdraw its decision rather than urging it to support Mr LAU Wong-fat's amendment resolution.

"Uncle Fat", I have read the advertisement carefully. Of course, there is some problem with the wordings and logic. Since I still have more than 10 minutes to speak, I will talk about it in passing.

Earlier on, I mentioned that LAM Chiu-ying, the former Director of Hong Kong Observatory, had met with villagers of Sai Wan Village. He pointed out that the incorporation of Sai Wan sites into the country park would not affect the property and land of villagers and should not be regarded as "robbing the people of their property". There were two applications for the construction of small houses in country parks and both were approved. It is evident that the construction of small house is not absolutely prohibited in country parks, and the development will not be obstructed unreasonably provided that the scale of development is suitable.

A green group, the Friends of the Earth, has pointed out that many villagers have misunderstood the law. For instance, Long Valley is developed into a habitat for migratory birds and a rice field in co-operation with green groups.

LAM Chiu-ying and many green groups have proposed the development of villages in country parks into "home stay lodgings" to improve the livelihood of villagers. However, the SAR Government has not yet clarified the activities allowed to be carried out in country parks. I think the Government is duty-bound to tell the villagers this, so that people living in the New Territories will know whether the incorporation of sites into country parks will infringe on their right to land property and what kind of activities are allowed in country parks. The Government must give a clear explanation of all these issues.

I hope that Hong Kong will follow Taiwan in developing a domestic village economy, such as agricultural or local cultural tourism. The Government may consider this proposal. It may have thorough communication and co-ordination with villagers or the relevant organizations to explore the possibilities and come up with a set of proposals. As the saying goes, "Stones from mountains of another country may be good for polishing jade", so the practices of other places may be worthy reference.

In my view, LAM Chiu-ying's proposal can hardly be implemented under the existing abnormal system in Hong Kong. But the Government should seriously consider the possibility of developing domestic village economy in rural areas, which is very important. If the Government continues to impose regulation through the systems and laws, villagers definitely will not be convinced.

Honestly, some non-indigenous villagers in the Northeast New Territories have been engaged in farming for many years, but sometimes they will be forced and lured by estate developers to hand over their land, for the compensation offered by the Government is inadequate for them to move away and maintain a living after all. This is one of the concerns. On the contrary, indigenous villagers with land ownership and concessionary right may construct small houses for resale and even for profit.

The major economic activities in rural areas are the selling of land or flats, so the Government must identify ways to give a clear explanation on the development of the New Territories. As I said earlier, villagers constitute a large group with significant influence. Moreover, it is stipulated unequivocally in the Basic Law that the interests of indigenous villagers should be maintained on a continued basis. However, on the issue of country parks, the Government

may regard the present proposal on site incorporation as a start and it should take follow-up actions, which is more important.

Since the Government has created the atmosphere of making profits through land sales, it is only natural that its present practice has sparked off strong reaction. Hence, if the motion of the Government is passed today, the Government should take a number of follow-up actions in future, particularly on the communication with villagers in the New Territories and improvement of the relationship with them. I hope the present incident have not injured their relationship.

I support the original motion of the Government (*The buzzer sounded*) ...  
Thank you.

**MR CHARLES PETER MOK** (in Cantonese): Deputy President, I have 10 years of experience in hiking. Tai Long Sai Wan (Sai Wan) is a destination which my hiking friends and I will visit almost every year. However, we cannot go there often, for the distance is very long and it takes a long time to complete the journey.

Two and a half weeks ago, we visited there again. But this time around, we chose to start at Pak Tam Au, passed through Chek Kang and reached Sharp Peak, the sharpest mountain in Hong Kong, which is the sharp ridge of the "four beaches and Sharp Peak" mentioned by Mr IP Kin-yuen earlier. I feel embarrassed as that was the first time I reached the top of Sharp Peak. I do not know how many colleagues have climbed up Sharp Peak, yet I felt that was one of the great challenges in my life and I am glad that I have at least climbed Sharp Peak once in my life. I do not know under what circumstance I will climb Sharp Peak next time, for it is no easy task after all.

When we came down from Sharp Peak, we went to Ham Tin Wan. That place is comparable to heaven on earth. We rested and ate at a store next to the beach. The fried rice, fried rice vermicelli and noodles with egg and luncheon meat served at the store became Michelin five-star dishes to us. As a result, we consumed all the soft-drinks and sweet tofu pudding sold in the stall. The photo I am now holding was taken at Ham Tin Wan on that day. I do not want to mislead Members, for the photo does not include any scene of Sai Wan. I did not take any picture when I reached Sai Wan.



Later, we went around a small hill from Ham Tin Wan and reached Sai Wan, the place we mentioned a lot today. At that time, we had walked for nearly six hours — sorry, my pace had been really slow when I went down the hill. We then climbed up Sai Wan Pavilion. Since it was Sunday, there were at least 100 people waiting for buses. We then decided not to wait for the buses and continued to walk. When we reached Sai Wan Road, the sky had turned grey. We walked on for another two hours or so and then returned to Sai Kung by bus.

Sai Wan is attractive rightly because of its remoteness. For the same reason, the unrighteous newly rich, Simon LO, constructed a summer palace in Sai Wan around three years ago after acquiring land from villagers — which is part of the enclaves in Sai Wan. When we go hiking, it takes a few hours for us to reach Sai Wan, yet it is learnt that some unrighteous rich make a direct visit there every week in a helicopter. On that day of hiking, I heard a helicopter flying above us on our way to Ham Tin Wan. It would cause pollution to the environment.

Three years ago, had not the green groups discovered the "LO's Palace", the woodland and pasture of about a hectare, as well as a considerable area of Government land on both sides, would have been devastated into a wrecked area. The "back garden of Hong Kong" was instantly turned into a construction site, with a number of dump trucks parked there. This photo I am holding was taken three years ago, that is, 25 July 2010. I do not know how the trucks had reached there, and I wonder if they were hovered there by helicopters. He is very resourceful. The sand and mud were dumped into the streams next to the site, polluting the water quality there.

Back then, I had to walk several hours to reach the place, and Tanya CHAN, a Member of the Legislative Council at the time, had gone with me together. My anger will build up now when I think of the scene at the time. (The Member displayed the picture) This is how the place looked like at the time. Today, a number of colleagues have shown many pictures exhibiting the beautiful scenery at Sai Wan. Hence, I would like Members to have a look of the messy condition the place had once been made.

The incident had aroused grave concern from the public back then. The Government then made remedy by incorporating Sai Wan into the Development Permission Area (DPA) within a month and specified that development would be

prohibited for three years. The authorities had barely managed to settle the incident with the arrangement and put the situation under control for the time being. However, three years down the line, it was discovered by reporters that the backyard of "LO's Palace" involved unauthorized occupation of Government land of an area of 20 000 ft. In this connection, the Government should definitely be criticized. In fact, in the course of the construction of the private paradise, the unrighteous rich man had violated a number of laws. But since part of the site is located in the enclaves, the Government cannot take any law-enforcement action — I do not know whether the Government is incapable of effecting enforcement.

According to the record, a number of workers in the project had been persecuted by the LandsD for unauthorized excavation in December 2010 and sentenced for penalties ranging from \$1,000 to \$35,000. Moreover, the construction contractor of "LO's Palace" had discharged effluent into the sea, polluting the water control zone at Mirs Bay, and was fined \$3,000 by the Environmental Protection Department in 2010. In the same year, seven workers were persecuted by the Agriculture, Fisheries and Conservation Department for transporting construction materials with bulldozers and light machinery through the country park, but they were only fined for penalties ranging from \$450 to \$800.

It is evident from the aforementioned cases that the authorities have been most incapable. It has been learnt that the rich businessman had only spent \$16 million to buy the derelict Sai Wan Old Village connecting North Beach and adjacent to MacLehose Trail for the construction of the 10 000 sq m "LO's Palace. The beautiful scenery of the "back garden of Hong Kong" has been damaged by a sum of \$16 million together with the so-called "penalties" mentioned earlier. It is a really good deal to the unrighteous rich man. He had wrought destruction before making development. To put it simply, he had got everything done before informing the authorities concerned. However, to Hong Kong, the cost is too expensive.

The Government should also be criticized in other aspects. "LO's Palace" occupied a large area of Government land, and the exact area involved has yet to be confirmed. However, the LandsD assigned staff to do site inspection only after the incident had been exposed and enquiries made by the media. The authorities could only confirm the unauthorized occupation of Government land of "LO's Palace" after some hustle and bustle, where some structures and

catchment channels were also found on the site. However, the LandsD provided an unexpected answer that since the person involved could not be found at the scene, it could not be confirmed whether it was a case of illegal occupation of public land. The incident has been left unsolved till now. I do not understand why the LandsD can be so incapable. Regrettably, the Department has not assigned any representative to speak in reply in this Council today. I am afraid the Secretary for the Environment will not be able to speak on their behalf.

The villagers and Members supporting Dr LAU Wong-fat today said that there are a lot of misunderstandings on the part of the public. But I am afraid they are shifting the attention of the public. Why? In order to explain the change of stance to not supporting the Government, some Members have put aside their concerns about environmental protection and raised a number of so-called "soft concerns". For instance, they pointed out that the Government has neglected the feeling of villagers and their means of living. They also said the public have mistaken that the Government will incorporate the entire Sai Wan into the country park — which is not the actual case, for the Government will only incorporate the building lots of certain villagers, whereas the beach is already part of the country park now. They also said that the incorporation of enclaves into country parks is seizure of private property, and so on.

They have made long speeches to explain their points, yet do they think that the public are silly? Do the public not know that it is a matter about the balance between individual interests and public interests? Do the public not notice that some villagers have sold the so-called enclaves they have at hand and caused damage to the public area in country parks? Who is the culprit? The public have seen it clearly.

(THE PRESIDENT resumed the Chair)

The amendment proposed by the Government this time will not affect the reasonable interests and rights of the villagers, for the interests in land is still vested with the villagers. The private sites being affected under the present arrangement is mainly used for the construction of small houses and as agricultural land, or they are derelict agricultural sites. Besides, the Government has made it clear that it has no intention to change the ownership of the villagers and they may continue to engage in agriculture or agricultural rehabilitation —

which I believe they will not — or they may apply for the construction of small houses, where there are precedents of approval being granted.

But there is one thing that should not happen again, and it is the construction of another "LO's Palace". The villagers urge the Government to help with the construction of public facilities of a reasonable scale, but it is obviously irrelevant to the policy involved in the present amendment. If villagers request the Government to construct piers or roads, they have to be reasonable, for the Government has to strike a balance between conservation needs and public interests in deciding whether the pier or the road should be built rather than just acceding to the request of the villagers. Villagers should not criticize the Government for doing wrong when it does not yield to them.

Today, some Members from the pro-establishment camp — they may not be regarded as the pro-establishment camp for a few hours, and they should be called "Members not supporting the Government" — said that before the villagers and the Government have agreed on the development plan, a nature conservation fund should be set up. They also request the authorities to offer compensation and to allow the villagers to construct and run "home stay lodgings", which they put forth as a prerequisite for passing the amendment to the Ordinance proposed by the Government today.

All these issues have been raised to divert attention, which is also a kind of "filibuster" trying to oppose the incorporation of the enclaves into country parks by the Government. I wonder if they also want to build luxurious flats and villas. Some people propose invoking the Town Planning Ordinance for regulation, but those places are not urban areas, how can there be town planning? Such a practice merely seeks to expand the development scope, does it not?

A few days ago, I read an advertisement on newspapers placed under the name of all villagers of Sai Wan Village of Sai Kung. On the morning of 15 November, villagers blocked their land. Certainly, we can hardly confirm whether the land concerned is private land, yet they claimed at the time that they were only blocking their private land. No matter how, they had obstructed the original route set for the Oxfam Trailwalker fund raising activity.

Luckily, participants of the Oxfam Trailwalker had been forced to walk a couple of additional miles, for if participants had to shorten their journey due to

the act of villagers, the participants would have been very angry. It is fortunate that the route was extended as a result of their actions. Yet, their actions have caused panic among the public, for they have not given any notice in advance before taking action, and they only "say sorry" in the aftermath. However, they behaved much better this time than in the "LO's Palace" incident, for no one has ever made any apology in the "LO's Palace" incident.

President, we support the decision of the Government not because we intend to infringe on the interests of the minority, but because the interests of the minority involve significant pecuniary interests and infringe on the interests of the public. As such, we must strike a balance. On the premise of providing reasonable protection to the reasonable interests of villagers, we should at the same time conserve this most beautiful "back garden of Hong Kong" and the most beautiful beach.

I support the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 proposed by the Government, but I oppose the amendment resolution proposed by Dr LAU Wong-fat.

President, I so submit.

**DR KENNETH CHAN** (in Cantonese): President, first of all, I would like to thank Dr LAU Wong-fat for proposing this amendment resolution, giving us the opportunity for different political parties and groupings to debate the issue from different standpoints and perspectives.

The debate today is not only about an issue which we have to handle together, that is, whether the enclaves of Tai Long Sai Wan (Sai Wan) should be incorporated into the country park. As the President or other Members may have noticed, the debate today has become one related to our nature conservation policy. In the past eight to 10 years, Members have had two to three opportunities to debate this subject. For instance, there were motion debates with no legislative effect, there was a large-scale debate in society when Sai Wan was wilfully damaged by Simon LO three years ago, and there were written questions and oral questions about the issue.

Members hope that the Government will not only address the problem involving a single place — the incorporation of Sai Wan enclaves into the

country park. They hope that it will also put forth vision and planning which can truly address the need to take care of and conserve the natural environment and landscape of country parks, as well as the needs, aspirations and expectations of the majority of Hong Kong people concerning country parks. Members also hope that in the incorporation of enclaves into country parks, the Government will address the objective needs of development as well as the subjective expectations and aspirations of the villagers involved.

How can we achieve an "all-win" situation, so that Hong Kong society, the villagers and country parks will all win? Secretary WONG Kam-sing must respond to this. I think the Secretary's opening speech has failed to convince Members how the present arrangement will achieve an "all-win" situation. I would like to ask the Secretary to use the remaining time to think about this and then explain clearly how the "all-win" situation can be achieved. No matter the amendment resolution proposed by Dr LAU Wong-fat is passed or not, the Secretary must face this problem in future. The debate on the incorporation of Sai Wan enclaves into the country park is only the beginning, just the start of the long journey. In fact, Members have been urging the Government to propose a holistic nature conservation policy over the years, yet so far, all we have heard are mere proposals without action.

President, I believe I need not explain my stance to Members, for Members may have noticed my activities in the past few weeks. When I discussed the issue with environmentalists, groups protecting country parks and the public, I had stated my position very clearly. "Uncle Fat", I am sorry that I must oppose your amendment resolution today. You and I may be in harmony despite our disagreement, but I have to explain some reasoning clearly. Members should not "support for the purpose of support", nor should they "oppose for the purpose of opposing". The indigenous villagers and villagers of Sai Wan and I, the HYK and I, as well as Dr LAU Wong-fat and I do not have any hard feeling or personal conflicts, but I must explain the reasoning and the facts clearly through rational discussion.

First, some Members opposing the Government's motion queried earlier whether the Government's practice is tantamount to misappropriation of private property, seizure of the rights of land of others, or expropriation of land through the Country Park Ordinance (CPO), and they asked whether people who knew the law or the educated would accept the Government's practice of snatching the land of others. President, even if enclaves are incorporated into country parks, it will

not constitute any change to private land ownership, for landowners will continue to own the land, and owners of concessionary rights will continue to have that right. In that case, how will their rights be deprived? I am really baffled by their statement.

Many opposing views consider that the incorporation of enclaves into country parks is not merely a concern about private property right, but also that of the "development dream" and the right to development. I implore Members not to lump the two issues together for discussion. Let me illustrate it with an example. If I own a site or an item, I have the private property right to the site or the item. However, the development of the site or the use of the item is not without restriction. Rightly because of the reason I mentioned, everyone in Hong Kong society has private property right, but the exercise and use of private property right is subject to the regulation of many provisions in law, and no one can act recklessly.

Since I study politics, I have considerable understanding about political philosophy. Regarding the full-page advertisement placed by friends from the HYK this time around, my attention has been drawn to one paragraph. In that paragraph, the rule of law and autocracy were mentioned. The argument of a famous philosopher John LOCKE was also quoted, which roughly means that the end of law is to enlarge freedom and protect freedom, so that freedom is free from restraint and violence. Right after that paragraph, the argument of John LOCKE in one of his famous books, *The Second Treatise of Civil Government* (《政府論次講》), was quoted, and I think that part is even more important. In paragraph 57 of Chapter VI of the book, it is written that, "... freedom is not, as we are told, a liberty for every man to do what he lists". In other words, it is saying that freedom is not as some people said that one can do whatever he wants whenever and wherever he desires, for that is not the true meaning of freedom. This is not the interpretation of freedom according to John LOCKE either. According to John LOCKE, the restriction and regulation of law allow people to enjoy their own rights in the interpersonal relationship in society, so that they will respect, assist and co-ordinate with each other, bringing their free will into full play.

Apart from John LOCKE, the quote in the advertisement has also reminded me of another very famous thinker, ROUSSEAU. He once said that "Man is born free and everywhere he is in chains". His saying rightly points out that we are in a civilized society and not a barbarian tribe, so we cannot exercise our

rights arbitrarily just because we possess the rights. If a person has the ability to purchase private land and make development arbitrarily, such as the construction of the private back garden and private palace by Simon LO in Sai Wan, we will not allow the development to go uncontrolled and unchecked.

Another example is the owning of private property in society. Our ownership will be subject to the regulation and restraint of law if we are causing nuisances to our neighbours. Under the law, everyone is treated equally, subject to equal restraint and regulation. This is the spirit of a civilized society upholding the rule of law. No one can exercise his or her rights without restraint just because he or she possesses the rights.

Members should note that first, this incident does not involve the purloining or expropriation of private property. Some villagers request compensation from the Government on the grounds that the Government has purloined their land. I hope Members will discuss the pecuniary issue later. We have gone too far when the discussion is carried to the stage of discussing compensation. We should act in an orderly manner. I support striving for compensation, but we may discuss compensation at a later stage.

President, "development" does not only involve the construction of housing, the sale of land or the exchange of land and rights of land, it also involves different considerations on various fronts. On this discussion on the incorporation of enclaves into country parks, the premise is matching the mode of development with the main direction — protecting the natural environment and the landscapes, and protecting the rights of Hong Kong people in using country parks. On this premise, how should the site concerned be developed?

A number of Members have put forth proposals on agricultural rehabilitation, running of eco-tourism and construction and operation of home stay lodgings, with a view to enabling residents or villagers there to engage in local economic activities. Out of empathy, when I discussed the issue with Dr LAU Wong-fat, I shared the same feeling. Today, it is reported in the newspapers that Joseph MO Ka-hung considers the building and running of home stay lodging services an acceptable direction and practice which can be considered proactively. I think the Government must consider this option. It should stop paying lip service. Otherwise, Members will press the Government to follow up. The Government must honour its words.



The gravest concern of Members is that the possible degeneration of the right to development into the right to damage in the absence of a clear definition. We will not allow the right to development to degenerate into the freedom to do damage, for we do not want to see the recurrence of the vicious act done by Simon LO three years ago.

If the Government does not acquire the land but request land owners to conserve the land, it has not contravened the Basic Law. However, if the Government incorporates certain private sites into country parks and imposes many environmental conservation requirements and restrictions on the site owners without providing reasonable and fair subsidy, the Government is in actuality freezing the activities and room for development of the site owners. It may not necessarily be reasonable for the landowners to bear all the price and cost.

If the Government incorporates enclaves into country parks according to the CPO without providing reasonable and fair subsidy, but only ensures that the sites concerned are developed on the premise of and according to the principle and objective of country parks, the Government has only fulfilled half of its responsibility. To my understanding, after enclaves are incorporated into country parks, the Government may provide subsidy through public policies, measures and resources, as well as from the Environment and Conservation Fund and through private and public co-operation or co-operation agreements.

From my point of view, the Sai Wan incident has provided an opportunity for Hong Kong people to see the option of an "all-win" situation. For those who love country parks and hope that country parks will be protected and prevented from damage, the incorporation of enclaves in country parks is good news; and for local residents, it is the first sign of dawn or a road leading to good prospects. They may be spared of the repeated wrestling with the Government in the past after that.

President, in the past few weeks, I have collected 3 224 signatures on the streets. I have already handed over the signatures to Dr LAU Wong-fat who is also the Chairman of the HYK, and I have gone to the office of the Chairman of the HYK to discuss this issue. No matter what the outcome of voting on the motion is, I hope all of us will still keep an open mind to continue with the discussion.

Last night, I spent nearly two hours to chat with villagers staying outside, including Mr LAI, to listen to the difficulties they encountered in their daily life and the different kinds of obstacles they experienced when they liaised with the Government in the past. Mr LAI mentioned that when the Registration and Electoral Office was compiling the electoral register, he could not register as an elector for he did not have a mailing address and could not receive the notification. Such an interesting scenario, which I consider ridiculous, should not have occurred. This gave villagers the impression that the Government regarded them as second grade, third or fourth grade citizens of Hong Kong. The Government must address the discontent or worries they have about the issues concerned.

I would like to point out in particular that the DAB proposed a motion debate titled "Nature Conservation Policy" on 15 June 2005 through Mr CHEUNG Hok-ming, who was a Member of the Legislative Council and a member of the HYK at the time. He urged the Government to "establish policy objectives and strategies which genuinely accord priority to conservation", and "reviewing the existing fragmented legislation relating to nature conservation, and considering the enactment of legislation which specifically deals with the conservation of nature and ecology". He complained about the separate approaches adopted by different departments in nature conservation, the fragmented and confusing legislation and the shirking of responsibilities by departments concerned, and so on, and he thus hoped that the Government would concentrate the resources on promoting nature conservation and stepping up the protection of rural areas. That motion was supported by many Members who are now in the Civic Party.

I hope Members of the DAB will understand that in many issues, we are basically urging the Government to do the same task. In my view, the incorporation of enclaves into country parks through the CPO to ensure protection is the best course of action. The Government may take the incident of Sai Wan enclaves as the starting point, so that it will formulate an "all-win" nature conservation policy on this basis.

I so submit. Thank you, President.

**MR ALBERT HO** (in Cantonese): President, I recall that the first time I visited Tai Long Sai Wan was some 40 year ago. Back then, I was not yet a university student, and I went camping there with a group of secondary school classmates for two or three nights. It was many years ago, yet it left a distinct impression in my memory, for the moon had been particularly bright during the several nights we camped there. The long beach was bathed in bright moonlight, and we seemed like walking on a shiny silver carpet. It was such a beautiful and tranquil scene. Not only the whisper of the waves was unforgettable, many amphibians were found on the beach. I recalled seeing the many small holes made by crabs scattering over the beach and many crabs crawling out of their holes. It was really beautiful.

Though I have not visited the place for many years, the environment has not changed much according to the description I am told by many friends who have been there recently. The number of crabs may have diminished due to the increasing number of visitors, yet Tai Long Sai Wan is still one of the few natural beaches with beautiful scenery preserved in Hong Kong. It is really a very valuable asset to Hong Kong. If I luckily were one of the local residents there, I would have been glad to see the place conserved. If I knew that my residence would be incorporated into the country park, I would have felt honoured, for I no longer have to worry that large-scale development would be carried out.

President, having said all these, I cannot evade one point: no matter how much I love that beach and its surroundings, there is the actual concern of private property right. If for the interest of the public and for the conservation of this beautiful environment, a site involving private property right is zoned as part of the country park, will it infringe on certain basic rights, thereby undermining the core values of Hong Kong? This is a question I have to face. Be I in the capacity of a Member or a lawyer upholding human rights and the rule of law, I cannot but face this issue squarely.

After listening to Mr Abraham SHEK's speech earlier, I consider it necessary to present some clear views, expressions and responses concerning the legal points he made. First, as many colleagues have said earlier, the incorporation of sites into country parks is not equal to taking over the property right of private owners, for it only involves the imposition of various restrictions on the use of land. We know that the incorporation of sites into country parks is carried out according to the specific authority prescribed in law. After the

incorporation, all building construction or development will be subject to very stringent regulation, even "village-type development", like the building of small houses, will have to obtain prior approval.

If land owners intend to build houses in country parks, they will have to obtain the approval of the LandsD, and the construction will also need to satisfy certain criteria, ensuring that the natural environment and the landscape there are fully protected. Though the arrangement has not subrogated the property right of the land owners, it is undeniable that their right to development may have changed. In the past, the sites are village lots, but now they have become part of country parks, and the right to use will be different. If the restrictions on "village-type development" are more stringent, it will be unnecessary to incorporate the sites into country parks. Therefore, upon the incorporation into country parks, the sites concerned will obviously be subject to more stringent restrictions in terms of land use. From this angle, the right to development of land owners will in actuality be subject to greater limitations.

Since the Country and Marine Parks Board has now exercised its statutory power to incorporate sites into country parks, it has brought forth the legal consequence of imposing more stringent regulation on land use and greater limitation on development on the sites concerned to fulfil the objectives stated in the CPO. At issue today is whether or not the arrangement has resulted in the so-called deprivation of private property rights, which will constitute a contravention of the Basic Law when no compensation is made for the full-scale expropriation. We need a clear answer for this question. If the answer is in the positive, the Government should definitely offer official compensation according to the Lands Resumption Ordinance, or it should follow the case of King Yin Lei by buying the site.

According to my careful study and understanding of the legislation relating to planning, as well as my discussion with planners well-versed in this area, I discover that the two cases are not exactly the same. However, according to the Town Planning Ordinance, the rezoning of certain sites which brings about new effect in the present case, shares some similarities and items in comparison.

Take a site which is originally designated for commercial and residential use or of a maximum plot ratio of 10 as an example. If the Town Planning Board (TPB) makes new plans to rezone the site and re-draft the outline zoning plan, where the maximum plot ratio of the area is restricted to only five and the

site cannot be used for residential or commercial purpose, the value of the site will be affected after rezoning and its price will definitely drop. Since the original plot ratio of 10 is reduced to only five, the value of the site will surely depreciate. However, according to the existing legal system, the landowner will not receive any compensation, and it has been so over the years. In the past, rezoning was often done due to transport planning and population development.

Against this background, we must know that in the course of urban development, the imposition of development restriction will often be made. If the development potential of certain sites is affected due to planning changes, no compensation will be made according to the existing laws, and it has been the case over the years. Certainly, when the TPB puts forth rezoning proposals and approved plans, persons affected may put up opposition, and the TPB has to give regard to these opposing views and even heed the opposing views. However, when a new plan is eventually made based on public interest which requires the imposition of certain restrictions, where the restrictions will lead to a decrease in the prices of certain sites, no compensation will be made.

By the same token, many sites in the New Territories are originally agricultural sites, belonging to Block Crown Lease. In the past, these sites might be used for the construction of container yards, but now it is disallowed. In the past, land owners may also apply to the Government for land exchange or modification of crown lease, and changing the use of the site to development zone by lease modification. Therefore, Members may notice a lot of development of this kind in the New Territories today, which is collective development but not clusters of small houses. In other words, these agricultural sites have development potential.

However, in view of changes in circumstances, if the TPB rezones certain sites as green belts out of the concern of conservation, I understand that no compensation will be made. It has always been the case under the system. As far as I understand it, it does not contravene the Basic Law, otherwise, I believe the land owners concerned would have challenged the arrangement through judicial channels long since.

As such, on the whole, I disagree with the earlier remark of Mr Abraham SHEK that the present arrangement contravenes the Basic Law regarding the provision prohibiting the acquisition of private land without compensation, for this is not exactly the problem. In actuality, the land right and the property right

have not changed. Though restrictions are imposed on the use of land, it does not constitute an expropriation of private property rights. But there are also exceptions. As far as I know, if a building plan has been submitted and approved prior to the rezoning of the site concerned, the rights of the landowners have been materialized. Since the plan has already been approved and the construction works is ready to commence, the height restriction of the site cannot be lowered even if the construction works have not yet been commenced, otherwise compensation has to be made.

The second scenario involves some special leases, stating buildings of a certain number of storeys can be constructed on the sites, and the number of storey has been set. However, if the construction is suddenly disallowed, the conditions of lease of the site are changed, and I believe this will constitute an expropriation of land. However, the present case of Tai Long Sai Wan is unlike this. Under this circumstance, I must point out after very careful and comprehensive consideration that I think from the legal perspective and out of respect for the rule of law, I cannot agree with the earlier comment that the arrangement is an expropriation of private property that contravenes the principle of the Basic Law.

On the whole, it is true that sites in country parks are subject to more stringent regulation, but as many colleagues have pointed out, the objective of the overall village building policy seeks to enable villagers to live and farm there and to enjoy a life close to nature. When the site is zoned as country parks, the environment will be better conserved, why not doing so then? If anyone opposes this and expresses the intention to launch large-scale developments on these sites through gradual exercise of concessionary rights and transfer of concessionary rights through the so-called "to ding" (套丁)<sup>1</sup> method, sorry, I have to point out that we should not protect this kind of right. Besides, this type of development is illegal, for the male successor has sold the site before he obtains it. We cannot protect or condone such practice, for it has infringed on public interest and defeat the original intent of village housing policy.

Yet I after all consider that if residents, particularly local residents, wish to construct some small-scale residence for self-occupation, which blends harmoniously with the environment there, the LandsD should not impose

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<sup>1</sup> Transfer of the concessionary rights to build small houses.

unreasonable prohibition. On the contrary, just as Members know, there are many small buildings in country parks, which do not undermine the completeness of the overall environment, and these buildings have become scenic spots attracting tourists. Therefore, I hope that they will exercise this right properly in future.

At the same time, I would like to point out that certain compensation mechanisms are provided under the law, but I am not well-versed in the details. Colleagues have not discussed much about these mechanisms, and thus I think the mechanisms are not easy to use. I apologize that I have not gained any detailed understanding of this today. However, on the whole, I think society should treasure the precious natural assets and support the incorporation of the relevant sites into country parks, so that villagers may continue to live peacefully and work happily there. Or I would say they will lead a more peaceful and happier life. If they have to make development applications out of residential needs in future, the authorities should treat the applications reasonably. It should not strive for zero building construction because of absolute conservation, which is unreasonable.

I so submit.

**DR KWOK KA-KI** (in Cantonese): President, the discussion on subjects relating to country parks, particularly subjects involving enclaves, is definitely not new to this Council. In 2001, when John TSANG, the incumbent Financial Secretary then, was responsible for planning matters, he mentioned at a professional meeting that the Government should examine some methods to handle the aforesaid issue through various channels, including development transfer or public-private partnership, and so on. It has been 12 years now. In 2004, the then Secretary for the Environment, Transport and Works, Dr Sarah LIAO, had put forth a nature conservation policy which included public-private partnership and management agreement plans, trying to designate 12 sites as pilot points under these plans. However, it has been nine years since 2004, yet we have not seen any of these plans bringing genuine protection to either the precious natural resources in Hong Kong or country parks dearly treasured by all the people of Hong Kong treasure most.

The arrangement made by the Government today should have been implemented a dozen of years ago, that is, the inclusion of these enclaves under

the CPO to ensure that they are afforded statutory protection. But regrettably, the Government has not included enclaves under the CPO so far and made this an important conservation policy. I do not know if it has done so deliberately or unintentionally. As a result, when the Government proposes including such sites under the CPO today, it has sparked off a fierce controversy. However, in comparison with the case a few years ago, I notice that society has responded in a much more mature manner today. Many more people have stated unequivocally the need to conserve country parks and the natural environment, which are exposed to increasing danger or damage.

In 2005, the then Vice-Chairman of the HYK, Mr CHEUNG Hok-ming, who is now a Member of the Executive Council, proposed a motion on nature conservation policy. The motion back then stated clearly that he attached great importance to conservation and the ecology, yet it is true that he has other concerns of his own which I cannot give regard to on his behalf. However, I notice that members in the rural sector very much agree with or support conservation. But I am particularly baffled by one point. Now that so many people have come forward to protect Tai Long Sai Wan (Sai Wan), and that the indigenous villages have expressed their love of the natural scenery, the tranquility and the unique lifestyle they used to have or they are enjoying now, the inclusion of these sites in country parks to restrict over-development will assist indigenous villagers who have been residing there for generations in preserving their original lifestyle and habits and protecting the natural resources and scenery they are enjoying now. In this case, why would they have considered the arrangement infringing on their rights then?

In the final analysis, President, it boils down to a matter of interests. As the case has developed to the present state, the greatest impact regarding these village areas, particularly the some 70 enclaves now under discussion — it should be 77 enclaves to be exact — is not on conservationists but the interests of many developers and indigenous villagers. The pecuniary interests involved amount to hundreds of million dollars. I believe the pecuniary interests involved are the cause of the serious dispute at present, which is most lamentable in my view. Certainly, we do not hope that the discussion will be carried too far to touch on the issue of concessionary rights. However, I think the Government will have to deal with this long-standing problem of the promise or realization of concessionary rights after all, which is quite difficult under the present circumstances. Indigenous villagers have all along been considering certain potential interests or consequential interests involved in the issue. Had they not



been concerned about these, I think they would have sided with most of the citizens and requested the conservation of these sites. In fact, indigenous villagers, like all the people of Hong Kong, treasure the tranquil ecology and unique scenery of these sites.

But at issue is that it involves pecuniary interests, particularly the interests of developers. We notice that the sites, including the sites to be discussed in the motion debate shortly at this meeting — Pak Lap, So Lo Pun, and so on — have been purchased one after another by developers secretly or by means of "*tao ding*", that is, the transfer of the concessionary rights, to seize the opportunity to reap profits amounting to hundreds of million dollars. Members will easily notice this phenomenon, and this is the worst part of the problem. Since no one will pay attention to the fact that there are over 3 100 species of vascular plants, 50 species of mammals, 450 species of birds, 80 species of reptiles, 20 species of amphibians, 140 species of freshwater fish, 230 species of butterflies and 100 species of dragonflies in Hong Kong. Many people consider the many species just mentioned are unimportant, and that the conservationists have been over-worried about those issues. As for developers who consider everything should be weighted by pecuniary interests, all the abovementioned species are dispensable.

Certainly, when large developers, including Cheong Kong (Holdings) Limited and other developers, need to make changes to these sites and when they want to make substantial changes to certain agricultural sites to cope with their development plans to extensively maximize their profits, they will surely list in detail the various conservation policies they will adopt to show how they have protected these rare species of flora and fauna. However, when we examine these large-scale development plans, be that of Tin Shui Wai, Hung Shui Kiu or Yuen Long, we know clearly at heart that the developers are only paying lip-service, failing to practise what they preach. Developers are concerned about profits. Profits alone have captured their minds and souls, and they will not care too much or give regard to the feelings of Hong Kong people.

President, I have noticed a very special point. Despite the small living area per capita in Hong Kong, the high land price policy adopted by the Government and the Government's unwillingness to increase housing supply, the many citizens who are living in a small flat will come forward to voice their determination to protect the country parks. Their support does not involve any personal interests, and they do so purely out of the purpose of protecting public property. Had they been selfish, they would have supported using the sites for

the construction of their future homes. It is a good option to them, is it not? But we all know that if everyone acts selfishly, all the rural areas and country parks in Hong Kong will soon disappear. This is particularly so when the Chief Executive and the Secretary for Development have more than once let slip the desire to plot the taking-over of these sites, which may be the tactic agreement between developers and the Government. I definitely hope that this is not the case in actuality.

Members may have noticed from the Sai Wan incident this time around that those who come forward to express their views are not in the minority or belong to groups in the minority, for this time most of the people of Hong Kong have come forward. Members should bear in mind that given the narrow living space and busy schedules of people's daily life, these areas in country parks, including Sai Wan, are the only source of comfort in the city to them. These sites are comparable to the emergency exits enabling them to escape from the pressing and fast-pace life and take a brief respite. If the Government fails to fulfil its obligation righteously in the present incident by including these precious sites into the protected scope of country parks for protection, I believe these sites will soon become sites for constructing luxurious flats of developers, just as what we have seen in the cases of Pak Lak and So Lo Pun where the Government has granted "exemption". After all, these luxurious flats all command sea views. Regarding the act of seeking the interests of a small number of people at the expense of the important public property of the majority public, the Legislative Council, including me, can hardly agree with it.

I understand that Dr LAU Wong-fat has no alternative but to propose the amendment resolution, since he represents many forces in the rural sectors, involving many interests, including the interests of developers and concessionary rights. I appreciate the difficulties of Dr LAU, but I cannot agree with him. In fact, our present support for conservation is not for the interest of this generation. As Hong Kong has announced the so-called new population policy of not setting a limit on population, it implies that there will be great demand for land. To the Government, the easiest, the most convenient and the least difficult approach is to release these sites in country parks for development. However, this is an approach which most of the people of Hong Kong consider unacceptable. Moreover, they have urged Members to prevent the passage of this amendment resolution in this debate.

The practice of conserving the ecology by way of legislation is not unique to Hong Kong, nor is it something that only Hong Kong needs to do. The

United States is the first country to use laws and power and various bills to protect natural heritage and natural resources. The United States is vast in area and it has ample land and many vacant sites for use, yet it still needs to set a clear definition in legislation, let alone Hong Kong. If we lower our guard, these precious sites will be stolen and developed into densely built-up estates.

The focus of today's discussion is definitely on Sai Wan, yet I believe Sai Wan is not the one and only one site, and it probably will not be the last site, which the Government has to work on. My greatest concern is when the Government will include the 77 sites in the CPO for protection. I do not want to see that after the inclusion of Sai Wan in the country park, the other 70-odd sites are "exempted". Some people even say that this is kind of a deal — President, I dare not believe this fully — to sacrifice Sai Wan for the "release" of the other 70-odd sites, which is after all a good deal despite the sacrifice. If this is the actual case, it will be so sad for villagers of Sai Wan, for they have been exploited by others.

In the Sai Wan incident, if the Government can luckily include the sites in country parks with the support of Members from the democratic camp — Members should know that the so-called pro-establishment camp which is supposed to render support to the Government have turned their backs on the Government, and we do not know why they do so today if the sites are successfully included in country parks, the Government's task has yet to complete. On the contrary, it owes the public even more, for when we strive to protect Sai Wan, we have noticed that the other parties, including private developers, have been trying to reap exorbitant profits through concessionary rights trading by means of the "to ding" method. These businessmen have already taken action or even completed their work.

President, though the subject of the discussion today is Sai Wan, I believe it is only a minor step in the long battle. To protect country parks and the ecology, and to protect the animals and plants each generation desires to keep for the next, we must be determined. I hope the public will continue to come forward to defend the country parks which are worthy of conservation.

With these remarks, I oppose the resolution of Dr LAU Wong-fat.

**MR CHAN CHI-CHUEN** (in Cantonese): President, today Dr LAU Wong-fat,

chairman of the HYK and member of the Business and Professionals Alliance for Hong Kong (BPA), has proposed an amendment resolution so that country park enclave of the Tai Long Sai Wan (Sai Wan) will be excluded from being incorporated into the country parks.

Today, "Uncle Fat" has suddenly become a Member of the opposition camp. This has reminded me that a few days ago — it should be Saturday — convenor of the Executive Council, Mr LAM Woon-kwong, said that some opposition camp Members were not civilized, thereby resulting in a tense executive-legislative relationship and difficulty in forging a consensus. He added that Members, regardless of their affiliation, should sit down and listen to the views of their counterparts with an open mind instead of blindly opposing government policies and pose obstruction to administration. At that time, someone said to me, "CHAN Chi-chuen, he was talking about you and those radical democrats and radical democratic forces." But let us think about it. Did Mr LAM refer to those who had suddenly become the opposition? It was reported that the DAB, the Liberal Party and the BPA had also claimed that they would jointly oppose the Government's proposal. I do not know whether Mr LAM would think that those who have suddenly become the opposition camp are civilized or savage?

Our roles have been reversed. Today, the royalists have become the democrats while we have become royalists for just today to jointly support the Country Parks (Designation) (Consolidation) (Amendment) Order 2013. In fact, we aim at protecting the Sai Wan rather than protecting the Government. We do not want to see the recurrence of a tragedy similar to the incident of Simon LO in 2010. We do not want to see that the local ecology is destroyed, thus resulting in some irreversible consequences. So, we wish to tell the Government that the democrats do not necessarily oppose the Government in all issues. Neither do they oppose for the sake of opposition. As long as the Government's policies are consistent with the stance of the public and compatible with public opinion, we will also stand by the side of the Government and in fact, the side of the people. Therefore, Members of the Federation of Trade Unions have also been accused and questioned why they stand on the same side as the pan-democrats.

In fact, many Hong Kong people do not have holidays and spare cash to travel to those beautiful paradises or Maldives and other places in foreign countries for enjoyment. The country parks in Hong Kong have become the

areas where people can breathe fresh air and enjoy the beautiful natural environment after work. The values of country parks are beyond measure. The incorporation of San Wan into the country parks is a strong desire of the vast majority of Hong Kong people.

I do not go hiking. I do not like hiking either. But in a lucky coincidence, I had participated in the Trailwalker on three occasions. Furthermore, I finished the trip with the full team. It is really amazing for I had never performed any practice before. I have never gone hiking. But I could complete the trip within the time limit. I walked 47 hours and 48 minutes with a toenail broken and my inner thigh seriously hurt by my underpants. I will never forget that feeling in my heart. The Trailwalker particularly likes Sai Wan because it is really very beautiful and people seldom have the opportunity to get there. So, I remember that when the incident concerning Simon LO happened in 2010, I had also come forth and participated in the campaign of protecting Sai Wan.

How beautiful is Sai Wan? Today, many people said that it ranks first in the natural scenic spots of Hong Kong. There are four bays and one peak. Do we know which four bays? In fact, Tai Long Wan includes Sai Wan, Tung Wan, Tai Wan and Ham Tin Wan, while the peak refers to Sharp Peak. We have to take a walk there in order to feel how beautiful it is, which is beyond description. In addition, we should go there as early as possible not because I am afraid that it may be damaged, but because there are lots of reasons which may make it less beautiful. So, Sai Wan is a gift of nature to Hong Kong people. It is a priceless treasure of Hong Kong and a common asset of Hong Kong people.

This time around, I have heard the most compelling reason for opposing the incorporation of Sai Wan into the country parks: The villagers' dream will be broken. What is their dream? The dream of developing the area. Perhaps, to be more honest, it is a dream of getting rich. "Uncle Fat" said that he also loves the country parks, but there is no reason to incorporate their lands into the country parks at the expense of the villagers' interests. "Uncle Fat" reiterated that the villagers' rights to develop their own lands should not be exploited. Even if his amendment is not passed by the Legislative Council, he also hopes that justice can be done to the villagers by a judicial review. We understand that he is obliged to do so because of his position.

But in my opinion, the many arguments and analogies mentioned by Members who support "Uncle Fat" are neither fish nor fowl. For example, in comparing the incorporation of Sai Wan enclave into the country parks with the incident concerning Choi Yuen Tsuen or the development of the North East New Territories, a Member claimed that this was robbing people of their property. In my opinion, we have to tell the truth. After the incorporation of these lands into the country parks, the villagers can still apply for the construction of small houses. So, this is not robbing people of their property. The Secretary has mentioned this many times. In his concluding remarks later, he may point out once again that applications for building small houses will not become more difficult and there were successful cases in the past. I believe the Government is willing to continue to communicate with the villagers and even help them realize their reasonable rights. I also hope that the Government can achieve this goal.

So, I have listened very carefully to each Member's speech. I have heard the impassioned and emotional speech of Dr Elizabeth QUAT from the DAB. She spoke in a kind-hearted manner and expressed the grievances on behalf of the villagers as if she was Guanyin from Heaven. So, I was also a bit touched. But they spoke in a different manner with different tone and facial expressions when we talked about villagers in the North East New Territories whose village was destroyed and their lands were snatched. Today, they will speak on this issue and have another opportunity to discuss the development of other places. I hope Members can use the same rule, the same tone, the same heart and the same facial expression to face Hong Kong people squarely.

In 2010, a non-indigenous inhabitant purchased a vast tract of land in Sai Wan for a construction spree. Trees were felled, the original route of MacLehose Trail was truncated and the original streams were destroyed for the construction of a giant pit. In fact, some Government land was also encroached. This series of incidents sparked a public outcry in Hong Kong. Under the compelling advice of the public, the Government announced decisively that Sai Wan be designated as a Development Permission Area, thereby temporarily curbing the construction spree which had run out of control.

At the end of 2010, the Chief Executive announced in his Policy Address that country park enclaves would be gradually incorporated into the country parks or covered by Outline Zoning Plans (OZPs). He also highlighted that the beauty

of nature would be taken into consideration in this process. Due to the world-class natural beauty of Sai Wan, the general public will certainly expect that Sai Wan will be incorporated into the country parks.

For the action of protecting the country parks this time around, we as urbanites have expressed our support. On the contrary, the indigenous inhabitants have opposed. We as urbanites are not savage people. We also agree that support and assistance should be provided to indigenous inhabitants and this is the direction of resolving the unnecessary troubles at present. Therefore, the Administration should collaborate with those who are concerned about rural development and conduct a study jointly with them, with a view to formulating a plan for enabling indigenous inhabitants to make a living in their village. This plan will be implemented within the policy framework. On the other hand, we should give support to organizations and volunteers who love and protect country parks. We should help them to devote more time and energy to resolving the problems of the villagers. Furthermore, concrete measures should be adopted to realize the villagers' simple wish of preserving the landscape of their village.

Dr NG Cho-nam, a member of the Country and Marine Parks Board, opines that it will be a lose-lose approach if private lands within the country parks are designated as enclaves or excluded from the country parks as "Uncle Fat" said. This will not be conducive to conservation on the one hand and villagers cannot get any subsidy on the other. As a result, lots of villages that fall within country park enclaves will become deserted and run their own course. Dr NG Cho-nam suggested that the country parks and private lands should be managed by the Government in the form of a partnership with the parties concerned so that their interests can be given regard. In the United Kingdom, private lands in the country parks have been developed into towns, which can promote tourism and lead to appreciation in the value of private land.

Today, "Uncle Fat" clearly knows that his amendment resolution will not be passed by Members in the geographical constituencies under the evil, twisted and malformed separate voting system, which has always been criticized by us. But I also appreciate him for his determination to propose the resolution even though he knows that it will not be passed. This is like the motion under the P&P Ordinance to be proposed later. The motion will not be passed under this evil, twisted and malformed separate voting system. Even so, we have to propose the motion. We will not say that you are "putting up a show". You

should not say that we are "putting up a show" either. We have to exert ourselves. I saw that "Uncle Fat" had started to urge Members to participate as early as the subcommittee stage to ensure that his amendment resolution could be supported by the subcommittee. He has proposed his maiden amendment resolution. When it has come to the time for debate and voting, he has tried to canvass votes by calling each and every Member. He has really delivered.

Someone asked him whether he would exert himself only in the subcommittee? Definitely not. "Uncle Fat" is still exerting himself in a very serious manner. This reminds me of eight characters: "項莊舞劍，意在沛公"<sup>2</sup>. Today, he has proposed the amendment resolution like "項莊舞劍", then who is "沛公"? It was reported by a weekly yesterday that "'Uncle Fat' was paving the way for his son to scale a higher position by means of Tai Long Sai Wan." I will not discuss such "gossip" stuff. Today, however, there is a report by another weekly: "Heung Yee Kuk grabbed land by resorting to fierceness. TANG King-shing chickened out." I am not sure whether he has read such reports. This time around, many weeklies and newspapers have also made news on this issue by hyping it.

Those who are concerned about the incorporation of the enclaves into the country parks also know that the protection of Sai Wan is just a small battle. Someone even said that it was a small victory. I really dare not say so. We must maintain our vigilance because the real tough battle is how to conserve the remaining 50-odd enclaves. It is reported today that half of the enclaves are covered by the OZPs, which means that these lands can be used for village-style development. Mr LAM Chiu-ying, the former Director of the Hong Kong Observatory, has also pointed out bluntly that if these enclaves were to be dealt with by the Town Planning Board (TPB), it might give rise to public concern because when scrutinizing the development of these lands, the TPB will often ignore the impact of the development on the surrounding lots. The classic example is to allow the construction of the skyscraper, International Finance Centre, which has destroyed the ridgeline of Hong Kong Island and the beautiful harbour view from Victoria Peak.

Today, the Government seems to be so kind-hearted that it wishes to do a good deed and stand by the side of the majority of Hong Kong people. But on

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It means that Xiang Zhuang performed the sword dance as a cover for his attempt on Liu Bang's life — to act with a hidden motive.



the other hand, the Government allows large-scale development to be carried out on other enclaves as if they have been "set free". Take So Lo Pun as an example, which is the subject of our next motion debate, although it is uninhabited, the authorities estimated that there would be 1 000 local people later. I really want to ask where these people would come from. I am sure that these issues can only be discussed in the next motion debate.

While we support the Government motion, the Government should not get excited too early or be too happy. If Members have paid attention to subcommittees, they will notice that Members of both sides, regardless of their positions, have put similar questions to the Government. These questions are as follows. Why did the Government did the job so poorly in the past? What is the principle of the Government? Why did the Government adopt different approaches for different things? Why did it seem that there was a lack of principle in the incorporation of lands into the country parks and the OZPs? So, in my opinion, apart from Secretary WONG Kam-sing, Secretary Paul CHAN should also attend this Council today so that he can listen to more views because we are talking about problems of lands.

The natural beauty of Hong Kong will be gone forever once destroyed. We do not think that the Government is totally right and perfect. Some Members even feel that the Government is even a bit savage, which means that its justifications are not strong enough to convince everybody, let alone that some of its arguments are contradictory with each other. We have raised these in the subcommittee. However, we have chosen to support the approach adopted by the Government because we are afraid that once these lands are "set free" and become enclaves to be excluded from the country parks, the damage will be irreversible. We all know the tactic of "destroy first, develop later". If the land is destroyed, it cannot be rescued even though we are willing to spend a lot of money, resources and manpower on it.

So, today I will oppose the amendment resolution by "Uncle Fat" and support the Government motion according to the people's wish. A scenic spot is in front of our eyes where people are living in harmony under the heavens. I hope that the Government is sincere in preserving these blessed lands, the country parks in Hong Kong.

I so submit.

**MR KENNETH LEUNG** (in Cantonese): President, even though the living space in Hong Kong is very cramped and air pollution is very serious, our country parks are close to us, presenting a high proportion of green space. Hong Kong was surprisingly ranked first according to the Livability Ranking of the Economist Intelligence Unit in 2012. Why? Because there are plenty of country parks in Hong Kong and this is Hong Kong's advantage.

In 2012, the number of visitors to the country parks in Hong Kong amounted to \$12.91 million. Among the country parks, the most popular one is the Plover Cove Country Park with the number of visitors reaching \$2.99 million. In Hong Kong, there are a lot of things that we should be proud of. But they are destroyed by our own hands. For instance, regarding integrity in Hong Kong, our recent ranking in Transparency Index has fallen to the 15th. Now, in view of the fact that Hong Kong is ranked first in the world according to the Livability Ranking, what measures have been adopted to preserve such precious resources of ours?

Earlier in the debate many Honourable colleagues discussed this issue from the legal and economic perspectives. I would also try to look at what will happen if lands are incorporated into the country parks from the economic viewpoint.

There is a renowned economist, Prof ALCHIAN, in the University of California. He is the world's most famous economist for his expertise in property rights, especially private property rights. In his thesis, he has pointed out that private property rights, which are not absolute, should be subject to the restriction of social contract.

Let us look at the private property rights under discussion now. What are these rights? Just now, several pro-establishment colleagues, especially those from the Business and Professionals Alliance for Hong Kong, mentioned that if these enclaves are incorporated into the country parks, private property rights will be jeopardized and some people will even be deprived of their ownership in some private land. But is this true?

According to Article 40 of the Basic Law, "The lawful traditional rights and interests of the indigenous inhabitants of the 'New Territories' shall be protected by the Hong Kong Special Administrative Region." As we can see it,

"the lawful traditional rights" under Article 40 do not mean the value of these rights. Instead, these rights include the original lifestyle of these indigenous inhabitants, a way of life which enables them to integrate into nature or a rural way of life. Certainly, this also include the so-called concessionary right to build small houses as promised by the Colonial Government in the 1970s. But even though we are talking about these rights, we do not wish to discuss a much bigger issue today, namely the concessionary right.

Even if we wish to protect those rights, but such protection does not include their future value. In other words, neither we nor the Government will guarantee that these rights will appreciate in value. No one will make such a guarantee. We will only protect the rights that are being enjoyed and utilized by the indigenous inhabitants.

In the 2010-2011 Policy Address, the Government undertook that out of the 77 country park enclaves, 54 enclaves including private land and Government land will be incorporated into country parks. In 2011, the Country and Marine Parks Board agreed to this proposal and amended the specified criteria for country parks so that private land would not all be excluded from the country parks.

Back to the property rights I mentioned earlier. According to the records of the Agriculture, Fisheries and Conservation Department, there are currently 19 000 pieces of private land in the country parks. Obviously, the facts tell us that the incorporation of enclaves into the country parks will absolutely not affect private property rights and ownership. These lands will certainly be subject to more restrictions after being incorporated into the country parks.

Just now many Honourable colleagues cited a lot of examples including examples of foreign countries to explain why we should not incorporate these lands into the country parks or the justification for setting up some conservation funds. I can tell Members some real-life examples in the United Kingdom. I remember Dr Elizabeth QUAT mentioned earlier whether a conservation fund should be set up like the National Trust in the United Kingdom. In fact, the daily life there is affected by these conservation policies. However, the British people do not hold the slightest grievance because even the ordinary people are living in listed property.

After being included as listed property, will the development of these buildings be affected? Certainly, this is possible. However, do the people

struggle with the British Government every day on the ground that the value of these buildings has dropped due to being named as listed property? No, they do not because they all like these buildings and their land.

These listed properties are divided into three grades, namely, grade one, grade two and grade three, and subject to different restrictions according to their grades. As I have also lived in such listed property, so let me cite the most simple example to explain what are permitted and what are prohibited. Basically, if you want to carry out some alteration works to a building which is included as listed property, you must lodge an application with a local council. Of course, you cannot replace a wooden window by a steel one or alter the building by adding a tiny loft. All these are subject to very stringent regulation.

Another relatively interesting statutory regulation is that painting work for renovation purpose should be carried out for the listed property every seven years and there are restrictions on the colour of the paint that the owners may choose. For instance, if the buildings in the whole street are white or cream-colored, other colours are strictly prohibited. But they all think that this is a very good conservation policy.

Thanks to such a conservation policy, the value of these buildings has not dropped. Conversely, many foreign investors love these streets because they look so beautiful in white. As a result, these buildings have appreciated in value. But this example may be too remote from us.

Let me talk about a recent — not recently indeed, it was 12 months ago when I travelled to Burma, which is a developing country where people are leading a hard life under military rule. In the past couple of years, many livelihood issues have been resolved under its reform and opening up policy after Aung San Suu Kyi has returned to the Congress.

I lived at a place near Inle Lake for a few days. The Inle Lake is a very large freshwater lake and the scenery is so very beautiful that it is comparable to Tai Long Sai Wan of Hong Kong. But Inle Lake is a very large lake measuring 116 sq km in area. In the vicinity of the place where we lived, there are some home stays which are not simple and crude. Each of these hotels or home stays can provide accommodation for five to six visitors. For the bigger ones, accommodation can be provided for 10 to 20 guests. Although these buildings are wooden bungalows, they are very beautiful and carefully designed by

architects. The one in which I stayed was built by an exiled Burmese Chinese who had lived in France for 15 years. He told me that thanks to the Burmese Government's policy, which aims at setting up these scenic areas for conservation purpose on the one hand and the development of sustainable eco-tourism on the other, Burmese who have emigrated for many years are encouraged to return and make investments in their own country. Hence, he has opened this boutique hotel, which is also known as a home stay. The development of the area is so successful that it attracts a lot of tourists every year. Certainly, it is necessary to strike a balance between conservation policy and development.

Just now, I heard many Members say that the rights of indigenous inhabitants would be jeopardized. In fact, the Government can try to provide comprehensive and holistic facilities so that residents can continue to enjoy the natural beauty and live their traditional way of life.

I was in Singapore last Saturday and Sunday. Certainly, the rapid development of Singapore is the envy of many Members in this Council who have often urged the Government to learn from Singapore. Of course, the area of Singapore is only around half of that of Hong Kong. With a high density of development, Singapore has more flat lands than Hong Kong and the restrictions in reclamation are also less stringent than that in Hong Kong. But when I asked the local residents about the quality of life there, they shook their heads. Certainly the growth rate of Singapore is the target of many Members in this Council. But when it comes to the quality of life and life experience, the local people said that they felt a tremendous pressure and they did not have country parks like that in Hong Kong. The only country park they have is called Woodlands, which is a jungle located in the northern part of Singapore with an area of a few hectares. For the other parts of Singapore, they are either reclaimed lands or built up areas.

Certainly, economic development and people's quality of life may be directly proportional or inversely proportional to each other. So, today, I see that we have a lot of precious natural resources and we keep saying that we love Hong Kong. I remember that a few years ago, I had a chat with Mr SZETO Wah who discussed the meaning of patriotism. He said patriotism means one's love for the local customs and practices, land and people of one's country. If we do not even love our land and want to destroy such a beautiful Tai Long Sai Wan, how can we say that we love Hong Kong? We should ponder over this.

Today, I am not going to elaborate why I oppose the amendment resolution proposed by Dr LAU Wong-fat because in the past few days I have received a lot of emails advising me to support the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 by the Government and oppose the amendment by Dr LAU Wong-fat.

Just now, I mentioned a very simple truth: Even though we should protect the rights of indigenous inhabitants vested by the Basic Law, we are not required to guarantee the value of their rights despite their entitlement to such rights. So, on the basis of this most fundamental point and on the basis that private property right is not absolute, I support the Amendment Order proposed by the Government.

President, I so submit.

**MR TONY TSE** (in Cantonese): President, according to the Adaptive Governance for Hong Kong's Country Parks Network published by the Civic Exchange in August 2011, when country parks were first established in the 1970s, the boundaries of the protected areas were mainly drawn around reservoir catchment areas, as well as high elevation areas, with the purpose of holding back development by designating the country parks and enhancing the protection of Hong Kong's water resources through reforestation. Therefore, one of the main purposes of drawing up the boundaries of the country parks by the Government in early years is to protect the water quality of the catchment areas. Since then, with the further development of urbanization in Hong Kong, more and more people attach importance to the value and conservation of nature. Some people even oppose any development within the country parks and the adjacent areas for fear that such development may pose threats to the environment and natural ecology of the country parks. In 2012, the number of visitors to the country parks reached \$13 million as many residents and visitors were fond of experiencing the natural beauty of the country parks in Hong Kong. Therefore, in recent years, many people have formed the view that the Government should expand the boundaries of country parks to enhance nature conservation.

The Government has proposed to incorporate the country park enclave of Tai Long Sai Wan (Sai Wan) into the country park because in June 2010, unauthorized excavation works were detected on both private land and

Government land of the country park enclave of Sai Wan, thereby arousing great public concern over the protection of country parks. In the 2010-2011 Policy Address, the Government undertook to incorporate the country park enclaves into the country parks, or determine their proper use through statutory planning to control the use of land in country park enclaves. Obviously, the question is: How should the development of enclaves be regulated to avoid causing significant impact and damage to the environment of country parks? However, is the incorporation of enclaves into country parks the only solution? Is it the most effective approach? How could the Government strike a balance between private property rights and public interest? Do the penalties specified in the existing CPO have sufficient deterrent effect on those who have carried out unauthorized developments without regard to the law? I wish to hear the explanation by the Secretary later.

President, according to section 18 of the CPO, "No compensation shall be paid to the owner of, or to any person interested in, any land because it is situated within or is affected by a country park." I consider such a provision tantamount to a sentence meted out without trial. It is totally unfair.

Secretary WONG Kam-sing has reiterated many times that the inclusion of private land in enclaves into the country parks will not affect private land ownership or result in a situation where the land will be reverted back to the Government. However, private land which has been included into the country parks will face more hurdles or restrictions even though its use, development or redevelopment is based on the conditions of the land leases. Furthermore, the public will expect that the development will better dovetail with and comply with environmental requirements. So, when development is carried out in accordance with the lease conditions, the landowner has to take into consideration more factors which will undoubtedly incur certain losses. But how could losses suffered by the property owner be assessed? Under the prevalent legislation, no independent professional organization or agency is authorized to conduct professional assessment on the damage to the property right of an affected property owner and make a ruling on the application of claims. At present, the affected landowner can only lodge a complaint to the Government. Inevitably, the landowner will question the fairness and impartiality of the decision of the Government which is both a player and a referee in a football game. Therefore, it is imperative for the Government to conduct a review and deal with the matter as early as possible to avoid confrontation between private interest and public

interest so that the landowners who have suffered losses can be given due reasonable compensation. The Government must consider how best to strike a balance between private property rights and public interest in an impartial manner. It should never give weight to one to the neglect of the other.

President, the incorporation of private land in the enclaves into country parks as proposed by the Government has aroused much public concern. On the premise of upholding social interests, the Government should take care of those whose interests will be jeopardized. However, the Government's consultation with the landowners concerned has obviously been insufficient. Neither could confidence be instilled in the people, especially the affected landowners, so that they would feel at ease and rest assured that their interests will be adequately protected even though their lands are incorporated into the country parks. So, I hope that the Government will take the initiative to provide more assistance to the affected land owners and inhabitants so that their village can be restored and agricultural rehabilitation arrangements made for farmers.

Over the past few years, conservation has been promoted by the Government with the mindset that it should be free of charge. Hence, private property owners would inevitably suffer certain loss for the conservation of the environment or structures. Alteration to a building which is regarded as having conservation value is subject to a special approval process. The Government should consider providing more assistance to the owners, including financial subsidies, so that conservation is carried out jointly by the Government and the private property owners. It should not issue an order of conservation without due regard to the needs and loss of the owners.

President, resources are needed in conservation, including appropriate compensation to those whose interests have been jeopardized. Tenants living in unauthorized squatter huts on Government land will be eligible for resettlement compensation on relocation under the Government's development plan. If the incorporation of private land into country parks results in *de facto* loss suffered by the land owners, the Government should provide reasonable compensation. We must respect that the private property of Hong Kong people is protected under the Basic Law. This is also a core value we must uphold.

President, I so submit.



**IR DR LO WAI-KWOK** (in Cantonese): President, it is necessary to clarify the confusions in this issue in order to place an accurate focus on the discussion on the motion and a constructive discussion in a calm and rational manner. Many media reports and discussions in the community generally maintained that Dr LAU Wong-fat has proposed to amend section 3(2) of the Country Parks (Designation) (Consolidation) (Amendment) Order 2013 with the purpose of excluding the Tai Long Sai Wan (Sai Wan) from the country parks. As a result, many people have a great misconception that once this amendment is passed, Sai Wan, a natural landscape with beautiful beaches, will be excluded from the country park.

Earlier in the debate, several Members opposed Dr LAU Wong-fat's amendment. Their speeches have precisely highlighted such misconception and misleading idea. In fact, Dr LAU Wong-fat's amendment merely seeks to not include Sai Wan enclave, that is Sai Wan Village, into the country park. The enclave is situated in the Sai Kung East Country Park (SKECP) with an area of 4 477 hectares. President, it is shown as the green part on this map. The Wai Wan Village enclave is part of the SKECP with an area of around 16.55 hectares, as indicated by the black square on this map, representing only 0.37% of the former. More importantly, Dr LAU Wong-fat's amendment will not affect the existing boundary of country parks. It will not affect Sai Wan which is a site that the environmentalists and rural visitors want to conserve. It will not affect the beautiful beaches as shown by Members today. The worry of Mr IP Kin-yuen that high-rise buildings will be built in Sai Wan will not realize. Nor the Simon LO incident mentioned by CHAN Chi-chuen will recur.

President, why did the authorities' announcement of including Sai Wan enclave into the country park has led to such a strong reaction by the HYK, Sai Kung District Council, Sai Kung Rural Committee and inhabitants of Sai Wan Village? These are issues left over from history and caused by the ineptitude of the authorities in dealing with the issue.

The so-called country park enclaves refer to private or Government lands which are adjacent to or surrounded by country parks but are not part of the country parks. There is a set of established principles and criteria to assess the suitability of a particular site of being designated as a country park. These factors include the conservation value of the site, landscape and aesthetic values, potential for recreational purpose, area, category and use of land. But given that

expropriation of private lands may involve the traditional rights of indigenous inhabitants of the villages and landowners may also raise objection, Government land is preferred in designating a country park to pre-empt negative impacts on the legitimate interests (including the erection of small houses) of villagers and land owners for fear that they might raise objection and claim compensation. Therefore, in determining the boundary of country parks, the authorities would usually exclude private land, which contains villages and agricultural lands, and the surrounding Government land, which serves as a buffer, from the boundary of country parks and therefore the so-called enclaves are formed.

Presently, currently there are 24 country parks in Hong Kong as shown by the coloured parts on the map. With a total area of 43 394 hectares, they account for around 40% of the total land area in the whole territory. There are 77 enclaves with an area of around 2 076 hectares, including several pieces of private land with a total area of around 460 hectares, which are also part of the designated country parks as the land owners have not raised objection. Hence, the enclaves have their own history and account for only around 4.8% of the total area of the country parks. This shows an extremely big difference in area between the enclaves and the country parks.

In the letter dated 5 January 1979 from the Country and Marine Parks Authority to the Sai Kung Rural Committee, there is a paragraph which clearly elaborated the policy of designating the country parks in the 1970s (I quote) to this effect: "When drawing the boundary of country parks, villages with human settlements will be excluded and enough space surrounding the villages will be reserved for normal expansion. In determining the distance between the boundary of villages and the country parks, the authorities will act in accordance with the policy of the New Territories Administration, under which new villages can be constructed within 300 ft of the existing villages. Under these guidelines, a buffer of at least 300 ft surrounding each village will be retained and such areas are totally excluded from the country parks." (End of quote)

It is clearly stipulated in the 1989 principles and criteria for designation of new country parks or extending country parks that Government land is preferred when a country park is designated. It is pointed out again in the 2011 revised set of principles and criteria that a site will not be suitable for designation as part of a country park if there are lots of residential developments with heavy human activities.

President, in any event, the existing mechanism offers mainly two options for protecting and conserving the enclaves from being affected by uses incompatible with country parks. Firstly, according to the CPO, the enclaves will be incorporated into the country parks. Secondly, according to the Town Planning Ordinance, the enclaves will be covered by a Development Permission Area (DPA) Plan and subsequently an Outline Zoning Plan (OZP) for control purpose through statutory planning.

President, I started my career as a professional engineer and had served as a member of the Town Planning Board (TPB) for three years from the beginning of 2010 to the end of 2012. Therefore, I have some understanding in this issue. After the gazettal of the DPA Plan, any development or use of the area in question will be considered illegal without approval of the TPB and the Planning Department may take enforcement action. For this reason, under the building or land administration system, an enclave which is not subject to effective control can be covered by a DPA Plan as a remedial measure. After the Sai Wan incident concerning Simon LO was curbed in 2010, the enclaves are controlled by the TPB by covering them with a DPA Plan. Back then, I was a member of the TPB.

However, a DPA Plan is valid for three years only and its validity may be extended for one year during which the plan should be replaced by an OZP. In the preparation of an OZP, the land use of an enclave will be designated and consultation will be launched so that the TPB may consider the conservation needs and development aspirations in order to strike a proper balance. The OZPs will indicate the regular permitted uses of individual planning areas and other uses for which the TPB's approval is required. Such information provides the basis and guidelines for control on developments in future. The entire process of formulating the OZPs is relatively stringent and democratic, meaning that public consultation and discussion with all quarters of society will be included. Many TPB members also have various professional backgrounds such as engineering, planning, construction and environmental protection, as well as representatives of relevant departments. Once the relevant rural land is covered by an OZP, the land use framework will be determined. Which part is agricultural land? Which part is the green belt? Which part can be used as a government facility? Which part can be used for village type development? Which part is special conservation area? All this is very clear at a glance. Village type development is also subject to restriction. The Sai Wan Village

enclave is precisely a site suitable for planning through an OZP. To this end, the OZP has become a regular planning mechanism applicable to the whole territory. At present, 23 of the 77 country park enclaves in Hong Kong have been covered by OZPs. In 2010, the TPB announced the draft DPA Plans for Hoi Ha, Pak Lap, So Lo Pun and Sai Wan. Thereafter, the TPB announced in September 2013 the draft OZPs for Hoi Ha, Pak Lap and So Lo Pun, which are basically found acceptable by the villagers concerned. If villagers wish to develop their land, they have to lodge applications with the LandsD as required and the TPB under certain circumstances.

President, the problem lies in the fact that in October this year, the enclaves at Sai Wan, Kam Shan and Yuen Tun were included into the country parks by way of gazettal before being scrutinized by this Council. As private land is not included in Kam Shan and Yuen Tun, there is not much controversy. However, 24% of the 16.55 hectares of land at Sai Wan is private land, including agricultural land and some villages, with the remaining 76% being Government land which serves as a buffer zone. I have also participated in the Subcommittee on Country Parks (Designation) (Consolidation) (Amendment) Order 2013. Honourable colleagues have unanimously raised some reasonable queries to the authorities as follows: Why did the authorities not adopt the same approach to control the relevant land use in dealing with the country park enclaves? Have uniform standards been adopted for conducting an assessment? Has the Government conducted a comprehensive assessment? Is this fair to the affected villagers?

It is not difficult to understand why the Government's approach has attracted strong opposition from the villagers of Sai Wan Village. Under the CPO, a lot of inconveniences and restrictions will be imposed on the daily life of the people and the future development of the land incorporated into a country park. For instance, section 26 of the CPO expressly prohibits or restricts the doing of anything therein which will interfere with the soil. Lighting of fires, picnicking, barbecuing, swimming, hawking, advertising and any other similar activities are also prohibited. Just now Mr Albert CHAN explained this in more detail. Nevertheless, the authorities have not submitted any plans to resolve the conflicts between the CPO and the life of villagers. If the villagers want to build small houses or develop their land in future, they will face tremendous restrictions, as Mr Albert HO mentioned earlier. The authorities claim that if Sai Wan is included into the SKECP, the management of the area will be

upgraded, and resources will be allocated to improve the ecological environment and recreational facilities. We could not help but ask: What substantial improvement project has been carried out since the setting up of SKECP in February 1978? Given the poor track record, how could the local inhabitants be convinced?

The SAR Government should strike a balance in administration. Although conservation is important, it is also necessary to have regard for the living and legitimate interests of local inhabitants. The most appropriate, most reasonable and acceptable approach to all parties in dealing with country park enclaves is to include them in an OZP based on the same assessment criteria. Such an approach can precisely respond to the constraints and restrictions mentioned by Dr Kenneth CHAN. In addition, there are 12 priority sites with high ecological value for enhanced conservation. A public-private partnership pilot scheme or Management Agreement Scheme has been implemented to encourage non-profit-making organizations to provide financial incentives (such as rents or fees) to the land owners in exchange for management rights over their land or their co-operation in enhancing conservation. Among these 12 sites, six of them, including Sha Lo Tung and Yung Shue O, are country park enclaves.

President, based on the aforesaid justifications, Honourable colleagues from the Business and Professionals Alliance for Hong Kong (BPA) and I support the resolution proposed by Dr LAU Wong-fat but oppose the incorporation of the Sai Wan enclave into the country park. Honourable colleagues from the BPA and I cherish and support the conservation of Sai Wan. However, we think that the Government should review the approach of dealing with the Sai Wan enclave and seriously consider adopting an OZP with a view to seeking a genuine multi-win solution which can strike a balance between development and conservation, promote the integration of human beings with nature, as well as social harmony.

President, I so submit.

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

(No Member indicated a wish to speak)

**SECRETARY FOR THE ENVIRONMENT** (in Cantonese): President, I thank Members for their views on the conservation of country parks enclaves in the past few hours.

I remember that during the past few decades from my tender years as a secondary student up to the present, I have often visited the rural areas of Hong Kong and seen that villages were on the wane. I have also witnessed the fading traditional colour of villages. All these have aroused mixed feelings in me. Having visited the four beaches and Sharp Peak at Tai Long Wan many times, I understand the concerns mentioned by Members in their speeches today.

As I said in my opening remarks, several country park enclaves are facing various development pressures. Developments in these enclaves may not be compatible with the natural environment setting of the country parks, or may degrade the aesthetic and landscape quality as well as the integrity of the country parks as a whole. In response to the public aspiration to strengthening the protection of country park enclaves by the Government, we have to consider the most appropriate method of protection according to the actual situation of each enclave. Regarding Tai Long Sai Wan (Sai Wan), it is assessed to be suitable to be incorporated into the country park after taking into consideration such relevant factors as conservation value, landscape and aesthetics values, geographical location, existing scales of human settlements and development pressures.

In the debate, some Honourable Members pointed out the unique scenery attraction and enormous potential for recreational purpose of Sai Wan. The incorporation of Sai Wan into the country park will improve management of the site. Furthermore, appropriate social resources will be committed to improving the ecological environment and facilities, thus further enhancing its landscape value. After the site's inclusion into the country park, the Government will take up its management and improve facilities and management initiatives, such as patrols, law enforcement, plant and waste management, and so on. Today, Members talked about the optimization of social resources through co-operation with villagers in environmental improvement with the help of some funds in achieving a multi-win situation. The authorities will provide appropriate country park facilities, including information signs for the convenience of picnickers. Moreover, law-enforcement officers of the Agriculture, Fisheries and Conservation Department (AFCD) will also conduct regular patrols and

surveillance in the country parks. They may take action against unlawful acts according to the Country Parks and Special Areas Regulations in a timely manner if necessary.

The statutory plans prepared under the Town Planning Ordinance (TPO) may set the framework for the land use and provide law-enforcement provisions for a particular site. But regarding resource allocation for conservation-related land uses such as the improvement of ecological environment or facilities, or issues relating to daily management, routine patrols and waste management, these fall outside the jurisdictions of the Planning Department or the Town Planning Board. Therefore, we hold that there are sufficient justifications and legal basis to support the inclusion of Sai Wan into the country park and Sai Wan can be more effectively protected through the Country Parks Ordinance (CPO). Hence, we consider that the justifications for preparing an Outline Zoning Plan for Sai Wan according to the TPO are far from adequate.

As I have emphasized on many occasions, the incorporation of private land in enclaves into country parks will not affect the existing ownership of the private land and the land will not be converted back to the Government. Private land in a country park is mainly regulated by the conditions of the land lease and the future CPO.

There were precedents in the past of approval being granted for the construction of small houses in country parks and I am not going to repeat them here. In fact, a total of around 460 hectares of private land on which hundreds of small houses were built have been included into various country parks on different occasions.

Regarding the private land in Sai Wan enclave, more than 90% are old scheduled agricultural lots with the remaining 7% being old scheduled building lots. We have to understand that the scale of development permitted by the relevant lease conditions is quite limited. Without prejudice to the Country and Marine Parks Authority's consideration of the merits of individual cases, in general the Authority is of the view that small houses are compatible with country parks. The Authority will give due consideration to applications for small house development in Sai Wan in the light of the actual circumstances of each case.

It is worth noting that before the relevant enclave is included in the country park, the development of small houses has to comply with the Small House

Policy and the relevant lease conditions, apart from compliance with relevant legislation and the provisions of other applicable policies. The District Lands Office will collect opinions from relevant departments, including the AFCD, when considering the applications.

Some Members, including Mr Albert CHAN, have proposed that the Authority be given appropriate powers to designate village environs in the country parks where villagers living in the village environs can engage in daily activities.

As we all understand, the purpose of setting up country parks is to protect nature and provide recreational and outdoor education facilities in the countryside for the general public. The CPO has provided a legal basis for the designation, development and management of country parks and special areas so that the public can enjoy the environment and scenery of the countryside. According to the Country Parks and Special Areas Regulations, certain activities in the country parks are prohibited and subject to control. However, having considered the impact on the lives of those who are ordinarily resident within the country parks, it is stipulated in the legislation that some regulatory provisions do not apply to those who are ordinarily resident within country parks, or permits are granted to residents through administrative means. Therefore, in general, the relevant regulations will not have a significant impact on the lives of villagers in the country parks.

For instance, section 4 of the Country Parks and Special Areas Regulations prohibits the bringing of vehicles into country parks and special areas, but the Authority will grant permits to those who are resident within the country park or those who often pass through the country park on their way home so that they can bring vehicles into country parks and special areas. If the villagers have any special needs on transport arrangements, their applications will be processed on a case-by-case basis.

Regarding other aspirations of villagers, such as the operation of simple stores or transforming their village houses into home stays, as these matters will involve various government departments and Policy Bureaux, we have in fact collaborated proactively with relevant colleagues in the hope that the villagers' requests can be fulfilled through closer cross-departmental co-operation.

We are concerned about the village economy and eco-tourism. We will



work in this direction in the hope of meeting social aspirations. Regarding Members' suggestion of committing more resources to the improvement of the ecological environment and facilities, the Management Agreement Scheme (the Scheme) has been set up under the Environment and Conservation Fund (ECF). The Scheme is applicable to conservation of country park enclaves and private land within the parks, which also include the Sai Wan enclave. Therefore, we will continue to introduce the Scheme to various non-profit-making organizations, relevant District Councils and local inhabitants with a view to encouraging land owners in Sai Wan to co-operate with suitable organizations in conservation. Relevant examples include efforts in various aspects such as optimization of afforestation, growing plants to attract wildlife such as butterflies, and cultivation which may enhance ecological functions, thereby enhancing the conservation and landscape values of Sai Wan and the SKECP.

Through the Scheme, co-operation in conservation of relevant sites between non-governmental organizations (NGOs) and landowners is achieved by entering into management agreements. Under the management agreements, the NGOs may provide land owners or tenants with financial incentives (such as rents and fees) in exchange for management rights over their land or their co-operation in conservation. The ECF will consider providing subsidy for expenditure which is essential to implementing the Scheme, including rents for leasing the land or houses. On the other hand, subsidies will be considered for projects such as participation in the management of the environment (for instance, assistance for wiping out invasive non-native plant species), providing environmental education (such as serving as eco-tourism instructors), and agricultural activities which are favourable to the conservation of the relevant site and the ecological environment nearby.

The Scheme currently in operation has achieved encouraging results. In addition to direct benefits to local ecological species, it has also raised public and local communities' awareness of nature conservation apart from bringing substantial income to landowners or tenants, thereby achieving a multi-win situation. For instance, under the Scheme, the Conservancy Association, with the subsidy of the ECF, has entered into a management agreement with farmers of Long Yuen so that crops which are environmentally-friendly and conducive to conservation can be grown, thus enabling local farmers to keep on engaging in agricultural activities while achieving conservation of the ecology and environment. Besides, the Conservancy Association has helped farmers identify more sale outlets with a view to expanding the sales volume of their produce.

Another example is the Fung Yuen Scheme in Tai Po. Through public engagement in activities, the general public and local residents are more concerned about conservation and their awareness of protecting nature has also enhanced. In addition, the Hong Kong Bird Watching Society has also entered into a management agreement with the fish farmers in the Northwest New Territories. Under the management agreement, fish ponds in Ramsar Site and Deep Bay Wetland outside Ramsar Site are operated in a manner which is in line with both the traditional method and bird ecology, thereby improving the ecological value of the sites.

Members are concerned whether the incorporation of the Sai Wan enclave into the country park may imply that the remaining enclaves will be dealt with in the same way. In fact, there is a set of established principles and criteria for assessing the suitability of each site for designation as a country park. Relevant factors to be considered in determining whether a site is suitable to be designated as a country park include its conservation value, landscape and aesthetic values, potential for developing recreational facilities, area, proximity to relevant country park, category of land and the existing land use. Regarding enclaves other than Sai Wan, the AFCD will conduct an independent assessment for each site on a case-by-case basis according to the principles and guidelines for designating the country parks. Even though the Sai Wan enclave has been incorporated into the country park, it does not mean that other enclaves will all be included into country parks because each enclave will be dealt with individually according to its actual situation. No precedent will be set by Sai Wan. A Member asked whether this is land resumption. I would like to clarify that this is definitely not land resumption and therefore no consideration of giving compensation for land resumed will be made.

In addition, some Members opine that consideration of the proposal of incorporating the Sai Wan enclave into the country park should be deferred pending the Court decision on the judicial review on the incorporation of the Sai Wan enclave.

All subsidiary legislation shall be laid on the table of the Legislative Council after publication in the Gazette of that subsidiary legislation in accordance with the procedures prescribed in section 34 of the Interpretation and General Clauses Ordinance (Cap. 1). The Country Parks (Designation) (Consolidation) (Amendment) Order 2013 (Amendment Order) is a piece of subsidiary legislation. After publication in the Gazette on 11 October 2013, it

was laid on the table of the Legislative Council on 16 October in accordance with section 34 (1) of the Interpretation and General Clauses Ordinance. Simply put, the procedures pursuant to section 34 of the Interpretation and General Clauses Ordinance have been initiated. At the present stage, the leave for a judicial review will not affect the scrutiny of the Amendment Order by the Legislative Council. The SAR Government has not received any court order that may affect the scrutiny of the Amendment Order by the Legislative Council either.

Moreover, in 2010 when the Legislative Council proposed a resolution to repeal the Country Parks (Designation) (Consolidation) (Amendment) Order 2010, the SAR Government submitted detailed comments on the amendment (including repeal) to the Amendment Order 2010 by the Legislative Council. We uphold our original view then that the Legislative Council does not have the power to amend (including repeal) an Amendment Order, otherwise it will be inconsistent with the Chief Executive's statutory power in making the Order pursuant to section 14 of the CPO (Cap. 208).

All in all, as Members may also understand it, Sai Wan's unique natural beauty and aesthetic value complement the overall naturalness of the SKECP to form an inseparable landscape. In June 2010, unauthorized excavation works were detected on both private land and Government land of the country park enclave of Sai Wan. This triggered significant public concerns over the better protection of country park enclaves in Hong Kong. In order to protect the site which has a high social value, the authorities have proposed to include the site into the country park after prudent assessment. The statutory process of designating a country park has commenced in accordance with the relevant legislation. So, it is basically lawful and reasonable.

The mainstream public opinions in society in the past and at present strongly support the Government's relevant proposal. The incorporation of Sai Wan into the country park is carried out on a crystal clear basis and process, which is legitimate and reasonable. Moreover, the site will be subject to better and more appropriate protection. I am glad that the Government's proposal is extensively discussed and given strong support. Today, Members of different backgrounds, including political parties of different political spectra and of various sectors support the Government's proposal. We are particularly grateful to Members from various political parties and groupings such as the Federation of Trade Unions for their specific recommendations on enhancing our conservation work. Of course, we appreciate the concerns of the local district and the

inhabitants of local villages. So, as I mentioned time and again earlier, we respect the existing interests in land of the local people. We also hope that a better balance between development and conservation can be struck in the future through various means. To allay the concerns of villagers, the AFCD has issued guidelines which have stipulated the more specific direction and steps to be followed if they wish to build new small houses in the future. Meanwhile, we hope that we can strengthen communication with relevant parties in villages in the future. For example, after the incorporation of the site into the country park, appropriate social resources can be injected into both hardware and software so that improvement in various aspects, such as construction of bridges and roads and the provision of other relevant country park facilities, can be made. In addition, the overall environment can be enhanced through better management in various aspects, including plant and waste management and, more importantly, the work of the AFCD, so as to achieve a multi-win situation. As many Members have said, we hope that the villagers' living conditions can be improved while bringing benefits to the picnic goers in Sai Wan through this initiative. In doing so, our vision of protecting the environment, bringing benefits to the villagers and the general public can be achieved.

In conclusion, I hope that the whole process is lawful and reasonable and in the future, it is sensible, too. I hope the Amendment Order will win Members' support so that the Sai Wan enclave and the other two enclaves can be included into the country parks to enhance the protection of the relevant sites.

With these remarks, President, I urge Members to support the Amendment Order so that the original version of the subsidiary legislation submitted to the Legislative Council can come into effect on 30 December this year.

Thank you, President.

**PRESIDENT** (in Cantonese): I now call upon Dr LAU Wong-fat to reply.

**DR LAU WONG-FAT** (in Cantonese): President, as I have said in the speech I made earlier, I seek to repeal the relevant provisions in the Country Parks (Designation) (Consolidation) (Amendment) Order 2013. But it is not to oppose country parks and ecological conservation. I oppose the Government's violation of the relevant stipulations in the Basic Law on the protection of the right to

private ownership of property in handling the issue concerned. The Government is also in breach of its contract with the villagers. It disregards the law, reason and compassion and it is bent on having its way in an arbitrary manner. This turns government action into one which robs the people of their property. This kind of action should never appear in a capitalist society which upholds the rule of law.

Many Honourable colleagues and I have presented many arguments both for and against the Amendment Order. I heard Mr Kenneth CHAN say earlier that he had received more than 3 000 signatures in support of the Amendment Order. And I have more than 10 000 signatures today to support my proposal to repeal the relevant provisions in the Amendment Order. But I do not intend to make a comparison of these. However, I wish to take this opportunity to present my views once again. I also want to show that the authorities are lying when they claim that the Amendment Order will not affect the right to private ownership of property. The officer in charge has said repeatedly that since the property owners still own the land to be included in the country park, they enjoy the same rights as before. When added to the fact that the land concerned will be put under better management, so the property owners affected will not need any compensation. Remarks like these are no different from outright lies. If what the officer says is true, then the villagers should be grateful for the benevolence of the Government. But why has this caused such hostility among the people against the Government as it is now? Does this mean that those villagers staging a protest outside this Complex has nothing else to do to kill their time?

The remarks made by the official make me think of language used by the Japanese militarist invaders. They called their invasion of East Asia as an attempt to build a Great East Asia Co-prosperity Sphere and the women they forcefully made sex slaves for their soldiers comfort women. But history shows that this kind of clever use of language will never conceal the truth of the matter.

President, everything in this world boils down to a word and, that is, "reason". I implore Members of this Council belonging to different parties and groupings not to reject speeches because of the persons who make them. Moreover, they must never change the yardsticks used to defend equality, fairness and justice because the matter involves the rights of villagers of the New Territories who take up only a tiny fraction of the population of Hong Kong. I hope that Members can put themselves in the shoes of others and sympathize the plight of the villagers. Would you agree if your homes, including those of the top officials, are subject to the same kind of treatment?

With respect to the speech made by Mr Albert CHAN and his opinion, I would think that it really shows that he has the conscience and moral courage. I wish to express my admiration for him. But it is unfortunate that he is not brave enough to lend his support to my amendment and cast his vote in favour of it. This is disappointing to me.

All along the HYK has adopted an open attitude and we are prepared to discuss. We welcome the exploration of possibilities including leasing land as a kind of compensation. All in all, on the premise of protecting the right to private ownership of property and promoting conservation, we can discuss everything.

President, I remember that when a debate was held in this Chamber on the development of the North East New Territories, I said that a benevolent government would last long. I will end my speech today with the same remark. Lastly, I sincerely implore Members to lend their support to my resolution and oppose the Amendment Order from the Government. Thank you.

(There was a hubbub in the public gallery)

**PRESIDENT** (in Cantonese): Will people in the public gallery please keep quiet.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Dr LAU Wong-fat be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Dr Kenneth CHAN rose to claim a division.

**PRESIDENT** (in Cantonese): Dr Kenneth CHAN 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 LAU Wong-fat, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr IP Kwok-him, Mr Steven HO, Mr Frankie YICK, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr CHUNG Kwok-pan voted for the motion.

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr IP Kin-yuen, Mr Martin LIAO, Mr TANG Ka-piu and Mr Tony TSE voted against the motion.

Mr YIU Si-wing and Mr POON Siu-ping abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted for the motion.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr WONG Kwok-hing, Mr Ronny TONG, Ms Cyd HO, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO,

Mr Michael TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted against the motion.

Mr LEUNG Kwok-hung abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 29 were present, 13 were in favour of the motion, 14 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 33 were present, nine were in favour of the motion, 22 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): Second Member's motion: Motion under the Legislative Council (Powers and Privileges) Ordinance.

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

I now call upon Ms Claudia MO to speak and move the motion.

### **MOTION UNDER THE LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE**

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

President, the Government chooses to announce today that the consultation on constitutional reform is to commence, there may be a side-effect and that is, it considers that the issue of issuing free TV licences is hotly disputed but now



people do not have the time to care about it. But you see, President, I would not call a quorum. Do not worry. Or perhaps I should call a quorum, right? President, can I have the quorum please?

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

(THE PRESIDENT'S DEPUTY, Mr Ronny TONG, took the Chair)

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

**DEPUTY PRESIDENT** (in Cantonese): Ms MO, please continue.

**MS CLAUDIA MO** (in Cantonese): A quorum is now present. Right? Okay.

Deputy President, that the Government chooses to announce today that the consultation on constitutional reform is to commence may be related to an idea and, that is, this incident which has attracted the attention of Hong Kong is now not attracting attention anymore and the issue of constitutional reform should be given a priority, the next is the incident about Tai Long Sai Wan.

However, this row over the issue of free TV licences has emerged not only because people are furious for not having additional free TV channels to choose but also because too many issues are involved. Last time when the Legislative Council proposed that the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) be invoked and it was finally voted down, so some people ask why a request is made now to invoke it again? As a teacher, I have always taught my students to pursue incessantly and they should never feel discouraged and give up because of a setback. We must strive again and fight and we should not pay it only lip-service and do nothing.

Should there be some new developments to this incident? The answer is

definitely yes. First, Members can see that in this incident about the issue of free TV licences, there are problems with procedural justice and likewise in the spirit of procedural justice. The reason why I have moved a motion this time to invoke the P&P Ordinance is to summon Mr Ricky WONG and Mr Ambrose HO Pui-him of the Communications Authority (CA). When Mr Ricky WONG attended a meeting of the Legislative Council Panel on Information Technology and Broadcasting, I asked him — not face to face though and there was some distance between us — I asked him, if he could be protected under the P&P Ordinance, whether he would be willing to disclose the consultant's reports he had and all the setbacks and processes he had encountered when making the application. He said he would be delighted to do so. However, for Chairman Ambrose HO, he has got a host of factors related to that "single man". By that I mean that "single man". Chairman HO has not attended any meeting of the Panel on Information Technology and Broadcasting. But we have received a letter from him in black and white. In that letter he draws a line between himself and the Government, saying that the CA has always indicated to the Executive Council that three licences could be issued, only that the Executive Council does not care about it and he feels that he has to make an explanation.

The CA is a professional framework and it is a monitoring agency for the television industry in Hong Kong and it is accountable to the public. Some reporters have asked, since Chairman HO does not attend meetings of the Panel on Information Technology and Broadcasting, why should we seek to invoke the P&P Ordinance to summon him? First, who knows whether or not he will disclose more information if he is given the protection under the P&P Ordinance? This is the first new development. Moreover, his capacity as Chairman of the CA is a public office, so not only does he have the privilege to serve the people of Hong Kong, he also has the responsibility to be accountable to the people of Hong Kong. This is the second new development. In view of this, the Secretary said that the CA has not rebuked the Government. Of course, what the CA is doing does not amount to a rebuttal of the Government, and it is only drawing a clear line between them. As for the third new development, it is one that has caused a public outcry and it is the person in charge of the consultancy which compiled the consultant's reports has come out and made some remarks. This move can be seen as a rebuttal. It is because the person in charge can be said to be pointing a finger at the authorities and questions whether or not the whole thing is a "fixed race" and whether the consultant's reports have been quoted arbitrarily.

I do not know if Members have noticed an oral question asked by Mr Frederick FUNG today. The question is about the issue of free TV licences. What we have seen today is really amazing because the reply from the Secretary is really shocking and I can say it is really shocking. It makes people find it difficult not to break into laughters or shed a tear. I can see that the Deputy President seems to be wearing a smile, because the reply from the Secretary is really weird and way overboard, so much so that instead of getting furious, people just laugh.

(Mr WONG Kwok-kin stood up)

**DEPUTY PRESIDENT** (in Cantonese): Mr WONG, what is your point?

**MR WONG KWOK-KIN** (in Cantonese): A quorum seems to be lacking in this Chamber.

**DEPUTY PRESIDENT** (in Cantonese): Are you requesting a headcount?

**MR WONG KWOK-KIN** (in Cantonese): Yes.

**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): Ms MO, please continue.

**MS CLAUDIA MO** (in Cantonese): Now, there is a quorum.

Deputy President, I will pick up from where I left off. Just now I was

poking fun at the reply given by Secretary Gregory SO this morning to an oral question from Mr Frederick FUNG and about the rebuttal made by the consultancy. The person in charge made a straightforward accusation of the Government and asked it if it had done any "race fixing". When words of such gravity are used, it can be seen that the consultancy finds it unbearable. The company has to care about its professional reputation and it is outraged to see that the Government said that it had made the "cherry-pick two out of three" decision based on the consultant's reports. But now the Government does not admit it and it has changed its mind, saying that the consultant's reports are one of the factors considered.

The view expressed by Secretary Gregory SO is written in black and white and it is found in part (b) of the main reply. Members would be much shocked if they read it. He said that the recent remarks made by the person in charge of the company compiling the consultant's reports make them — he uses the word "we" but I have no idea what this "we" represent. I guess it means all the top officials. It should also refer to himself. He said that "We are surprised and perplexed" and that the consultancy disregards its "professional ethics" — this is a terrifying criticism. Then he said it is "much regretted" and that the firm's "action inappropriate". What that person in charge who is a lady has done is only to express her personal views on the matter and then the Secretary said that the consultancy has not respected "the spirit of contract and maintain the neutrality as a consultant".

Hong Kong was once a free market and a free port, attracting many people to come here to do business. When a private company come here to operate a business, it needs to mind its professional reputation. I think Members from the business sector would hear this very well. And under the demand and supply situation, a consultancy is hired by the Government and of course it will prepare a professional consultancy report for it. Then when the Government misquotes some views taken from the consultancy report, the consultancy will naturally think that the Government has misquoted. It is very obvious that the Government wants the consultancy to say something pleasing to its ears. The so-called consultancy report in the eyes of the Government is a report which uses millions or tens of million dollars of public money and it must tally with the Government's wishes or else the consultancy is in the wrong. If any commercial firm gets this kind of treatment from the Government, a normal person will come out and make some fair remarks for himself and then to the people of Hong Kong on this issue of the TV market.

We therefore need to look at what the consultancy has got to say. In the supplementary question I raised this afternoon, I asked that since the Secretary was doing this and if the Government was using its might to counter a private company, then would this not amount to issuing a threat? I asked him if he dared to come to a face-to-face dialogue with the consultancy. But he did not answer me, other than saying that the matter was over, and so on.

Deputy President, the TV market in Hong Kong is dying. If the programmes aired by Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) are good and when there are new TV stations entering the market, one is from now TV and the other is from Cable TV, people would have two more choices, then why is the reaction of the Hong Kong people so strong? The people of Hong Kong have to work from day to night and they have to travel a long distance to and from work in order to live from hand to mouth, then why were there 100 000 people coming out and taking to the streets to a rally and in such a noisy manner? This has made international headlines. Why are the people of Hong Kong so upset and agitated because they have no TV to watch?

Deputy President, this is a front page report carried in *Ming Pao Daily News* last year. The front page on that day was in A2 because there was an advertisement in A1. It says to this effect: More than 10 000 complaints lodged when ATV slammed Scholarism. Then it says that ATV has a programme called ATV Focus and the programme points out that politicians made use of students and academics criticize them for being unfair. When that programme was aired, the young people from Scholarism were holding a rally in the Government Headquarters — this is just a stone's throw from the Legislative Council. They were opposing the "brainwash education". And this current affairs programme of ATV said that these young people were ignorant and made use of by politicians. The complaints received by the CA against this programme broke the record in the history of television in Hong Kong. We think that ATV ... and many Honourable colleagues have talked about this many times. As far as I can remember, some Members have even poked fun at President Jasper TSANG, saying that he was a guest in an ATV programme called News Bar Talk which has zero viewership. That is how Members make fun of ATV.

When we speak here, we are under the protection of the P&P Ordinance. Even if the officials can hear what we speak, we can still pour out our heart's content. I hope that other Members of this Council will agree that we can ask

Ricky WONG to come here with pleasure ... and also Ambrose HO, though he may not be delighted. But I think since Mr HO is a public officer, he would be happy to come before this Council to take questions from us. And he is protected by the P&P Ordinance and he should have no worries.

The problems with ATV are well known and it would be a waste of time and effort to list them *seriatim*. The latest story about ATV is what I heard from some reporter friends last night and that is, for four years ATV has not submitted any audited accounts. What kind of a TV station is that? Then ATV was fined \$200,000. The reason it gave is that it has been very busy and so busy that it does not have the time to hire an auditor. What in fact is ATV busy about? It is to handle many disputes and complaints. This is the most absurd thing I have ever heard. It is beyond our imagination. This is a black box. It is a black-box operation. The television industry in Hong Kong is dominated by one TV station, that is, TVB. In fact, this is not the fault of TVB because there are only TVB and ATV in the industry. Since ATV is such a weak rival, it is only natural that TVB will dominate. We should not blame it for being so strong. But we can all see the problems when one TV station is allowed to dominate. That is why there is so much public indignation.

About this allegation that TVB dominates the industry, the CA says that the TVB is not hoarding any land or goods, it is only hoarding artistes. The CA has imposed a fine on TVB and pointed out its wrongs and said that it is against fair competition. We asked Mr HO, the Chairman of the CA, a question the other day. I said, "Now TVB dominates the industry and if artistes want to be popular and if they want a big viewership, they would not dare offend TVB in any way. If they want to appear in TVB, they will have to undergo some self-censorship and they will continue to speak in Putonghua. They will not dare offend the management of TVB in other areas." This is a requirement not explicitly stated in any contract. TVB will not tell the artistes never to appear in other television stations and speak in Cantonese and that they must remember to speak in Putonghua. This will never happen. And Mr Ambrose HO squeezed a bitter smile, saying that the issue of the domination of the industry by one TV station was not found on the agenda for the meeting on that day. But this is the reality we find in the TV market in Hong Kong. It makes the Hong Kong people furious because it is not known why Ricky WONG was ousted in the "cherry-picking two out of three" game. Is it really because of the factor of that "one single man"? At least, we have to read the contents of the consultant's reports before we can know what has gone wrong in procedural justice. Thank you.

**Ms Claudia MO moved the following motion:**

"That this Council appoints a select committee to inquire into whether the Hong Kong Special Administrative Region Government has violated the fundamental principle of free market with fair competition of the free television broadcasting policy; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance to order Mr Ricky WONG Wai-kay, Chairman of the Hong Kong Television Network Limited, or his authorized representative and Mr Ambrose HO, Chairman of the Communications Authority, or his authorized representative to attend before the committee to give evidence and to produce in their possession all relevant papers, books, records or documents involved in the processes of vetting and approval of domestic free television programme service licence applications (including but not limited to all relevant documents and reports submitted by the former Broadcasting Authority to the Hong Kong Special Administrative Region Government)."

**DEPUTY PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the motion moved by Ms Claudia MO be passed.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Deputy President, on 15 October we announced that the Chief Executive-in-Council had approved in principle the applications of Fantastic Television Limited and Hong Kong Television Entertainment Company Limited for a domestic free television programme service and in accordance with the Broadcasting Ordinance (Cap. 562), the application by Hong Kong Television Network Limited was rejected. Today is the second occasion in a month on which an Honourable Member has proposed a motion in the Legislative Council meeting pursuant to the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) on the relevant decision. The SAR Government opposes the motion today and as in the motion moved on 6 November by Mr Charles Peter MOK, the action proposed by this motion will only serve to undermine the institution in Hong Kong and will not help members of the public understand the relevant decision made by the Executive Council. In the end, it will waste the efforts of the executive and the legislature and the matter will only become more

politicized.

Also, as the Chief Executive said sometime ago, complicated matters are involved in handling the three applications and when criticisms are made of the incident, they should be based on the original remarks made by officials, with reference to the context. They must not be based on any claims made by people on remarks by officials or reports not substantiated by the Government. I hope to make use of this opportunity to explain the decision in question and clarify certain misunderstandings.

First, I notice that there is still misunderstanding in the community that when the Executive Council decides to adopt a gradual and orderly approach to introduce competition, it will change the so-called rules of the game. I have reiterated time and again that irrespective of the policy announced in 1998 on liberalizing the television market or in the provisions found in the Broadcasting Ordinance (BO), nothing is said that provided that applicants can meet certain basic requirements, they will be issued a licence. With respect to each application, the recommendation from the Communications Authority (CA) must be obtained and after the Executive Council has considered all the relevant factors, a decision will be made to issue or not to issue a licence.

On the sustainability of the free TV market, apart from considering the findings of the studies made in the consultant's reports, the Executive Council will also consider all the representations made by the relevant bodies after the completion of the consultant's reports, as well as the latest market situation. In the end, it was decided that a prudent attitude should be adopted to ensure sustainable and healthy development of the free TV market. Therefore, we decided to adopt a gradual and orderly approach to introduce competition to the free TV market. But we do not rule out the possibility that more free TV operators will be introduced as appropriate in the light of the market situation in future.

Second, there are people who have the wrong impression that when the Executive Council made the relevant decision, it had considered the issue of profit and loss of the applicants. We have explained many times that irrespective of the existing free TV stations or the three applicants, their ability to ensure sustainable operation is not a factor of consideration. The Executive Council focused on the sustainable development of the free TV market as a whole. In the face of market uncertainties and taking into account the importance of the free TV market, the Executive Council has made the decision



in a prudent manner.

We are always committed to preserving Hong Kong's edge in economic freedom and we will provide a business environment conducive to enabling vibrant development of the enterprises. We have built a proper regulatory regime to enable the fair and smooth operation of the free market. Insofar as the broadcasting policy is concerned, we have a mature licensing system and our goal has always been to increase programme choices, encourage innovation and maintain our competitiveness. With respect to the three applications, the Executive Council has taken a macro perspective in considering the business environment of the free TV market as a whole and the aim is to ensure healthy and orderly development of the free TV market. This is completely in line with the economic principles upheld by the Government all along.

Third, the BO clearly delineates the roles and powers of the CA and the Executive Council in the licensing process. The Executive Council is duty-bound to consider the recommendations made by the CA and decide pursuant to the law whether or not a licence is to be granted. The law states that the Executive Council has the final say in matters concerning whether or not free TV licences are to be granted.

The present adoption of a gradual and orderly approach to introduce competition to the free TV market tallies with the established broadcasting policy and for that matter, there is no need for the Executive Council to consult the CA again. As a matter of fact, when considering the recommendations submitted by the CA, the Executive Council noted the view of the CA on this factor of the overall operation sustainability in the market. When processing the applications, the Executive Council had asked the CA to respond to questions raised regarding the representations and the Executive Council had confirmed whether these representations would affect the latter's recommendations. The Government has explained the position of the CA earlier in the Legislative Council Brief issued. The paper submitted by the CA on 7 November to the Legislative Council Panel on Information Technology and Broadcasting also restated the same position.

Fourth, the Executive Council has handled these three applications pursuant to the relevant law and in conformity with the relevant system. When processing these applications, the Executive Council had at all times adhered to procedural fairness and taking into consideration the professional advice tendered

by its legal advisers both in Hong Kong and from overseas. When the applications were being examined, the Executive Council had asked the relevant bodies to provide supplementary information in line with the developments and they had been asked to make representations. Before the decision was made, the Executive Council had made the four consultant's reports available to all the applicants and they were given ample time and opportunity to respond and provide representations on a number of occasions.

On this matter of applications for free TV licences, I understand that it is the public's wish that the more choices are available the better. Among the 11 factors considered by the Executive Council, public opinion is included. As the licensing authority, the Executive Council must strike a balance and take into account all the relevant considerations when exercising its power conferred by the law to vet and approve applications.

Deputy President, the relevant decision was made after the Executive Council had considered holistically the relevant laws, policies and procedures. The premise is that the overall interest of Hong Kong must be taken into account.

If any person is not satisfied with the relevant decision and wishes to seek redress through judicial proceedings, we will respect the right of such persons in law. Should the Legislative Council invoke the powers under the P&P Ordinance to intervene, it will not only serve to undermine the confidentiality system of the Executive Council but also make the matter more politicized.

What will be the subject of inquiry if the motion is passed today? The motion proposes to order one of the applicant bodies and the CA to come before this Council to give evidence and to submit information related to the procedures of handling the applications. Such information will inevitably involve papers discussed in the Executive Council and so the disclosure of such information will undermine the proven confidentiality system as practised in the Executive Council. It was only after considering a large amount of information that the Executive Council made the relevant decision. The disclosure of incomplete information concerning the applicants and the CA will only cause misunderstandings and misreadings, which is extremely unfair to all parties concerned.

I hope Members can vote against the motion today. We will concentrate our efforts on handling the work concerning the second stage of licence application so as to introduce competition to the free TV market as soon as possible for the benefit of the viewers at large.

Thank you, Deputy President.

**MR GARY FAN** (in Cantonese): Deputy President, I speak to state that the Neo Democrats support Ms Claudia MO's motion. This is the second time this Council debates in a meeting of the whole Council whether or not the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) should be invoked to inquire into the vetting and approval process of the Government in the issue of free TV licences. Over the past couple of months, the people of Hong Kong can never forget how the Government in a black-box operation refused to grant a licence to the Hong Kong Television Network Limited (HKTVN) with blatant disregard of procedural justice and how the jobs of the staff of the HKTVN are overlooked to enable this "one single man" to decide to refuse the licence application by the HKTVN.

Deputy President, more and more evidence has surfaced to show that in this process of vetting and approving free TV licences, the Government has neglected the professional, objective and balanced view from the former Broadcasting Authority (BA) and the consultancy. Instead, a decision was made by the Executive Council and even as a result of the personal view of the Chief Executive. Section 10 of the Broadcasting Ordinance stipulates that the Chief Executive in Council in considering the recommendation made by the former BA can make a decision on licence application. This requirement shows that in the design of the system for issuing TV licences, the Communications Authority (CA) does have a very crucial role to play. And many members of the former BA are experts in the area of communications and their duty is to give advice to the Chief Executive in Council with respect to matters in TV licences. Therefore, the advice tendered by these members must be respected. However, the chairman of the CA, Ambrose HO, disclosed earlier that from the outset the Authority insisted that three licences should be issued and he was of the view that there was no need to rank these three applicants and it was not appropriate to do so.

(THE PRESIDENT resumed the Chair)

President, the public statement from the CA is poles apart from the explanation given by the Government on the failure of the HKTVN in its licence application. The Government's explanation is self-contradictory. It can be seen that when the Executive Council considered applications for free TV licences, it had completely rejected the professional advice from the former BA. And, as different from the claim made by Secretary Gregory SO earlier, this is only a difference in nature and considerations. Since the BA was the most important advisory framework for the broadcasting policy, if its recommendations are neglected by the Executive Council, this will inevitably make the people of Hong Kong question whether it was because there were problems in the capability of the former BA that its recommendations were totally out of touch with the reality or that the Executive Council and the Chief Executive had never viewed licensing matters in free TV from the perspective of broadcasting policy. All they were doing was to curb the people's freedom of information and this accounted for their indifference to the professional advice tendered by the former BA.

The application process for free TV licences on this occasion also involves a major policy change, a change from have no ceiling on the number of licences granted to making a choice out of the three applicants. The Government had written to these three applicants and they were given a chance to make fresh representations. But the CA was not informed beforehand, nor was it asked to vet the three applications again on the basis of the new policy. In other words, the licensing decision was made by the Executive Council probably not on any recommendation made by the CA on the basis of the new policy. This is a breach of the stipulations in section 10 of the Broadcasting Ordinance (BO). The Legislative Council is therefore obliged to invoke the P&P Ordinance to request the CA to hand over all the documents examined in the vetting and approval process so that a decision can be made on whether or not the allegation that there is a contravention of the BO is substantiated.

President, Radio and Television Hong Kong has decided to shoot the series Under the Lion Rock again. The new playscript is on the story of the struggle of the young people in a life full of hardships. This is full of conflicts between ideal and work. This row over TV licences has made many people of Hong

Kong, including me, question whether this Government still encourages this spirit of the Lion Rock in pursuing the freedom of innovation and a dauntless mindset of attempt. The Legislative Council is endowed with the P&P Ordinance which it can use to monitor the Government, so it should discharge its duty and defend this spirit of the Lion Rock to ensure that there can be a fair and open business environment in Hong Kong to demonstrate the supremacy of the rule of law.

President, I so submit.

**MR SIN CHUNG-KAI** (in Cantonese): President, I also speak to support Ms Claudia MO's motion to request that the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) be invoked to summon Ricky WONG or representatives from the Communications Authority (CA). However, the CA issued a paper to this Council last week saying that the CA (that is, the former Broadcasting Authority (BA)) had made a recommendation to issue three free TV licences. In fact, with respect to the judicial review case, the relevant information has been disclosed.

Why should Ricky WONG be summoned? I am sure, as Ms Claudia MO has just said, Ricky WONG has got a lot to say on this. In the Sunday just passed, a young outstanding person in Hong Kong threw a wedding banquet and I was also invited. I met Mr Ricky WONG there and talked with him for a while. I first gave him my words of comfort and urged him not to give up. He replied that he could still hold on. But when we continued talking, he said something that I felt difficult to believe but nevertheless I had to. All along I had thought that LEUNG Chun-ying got an order from Beijing or the Western District to not issue a licence to Ricky WONG's company. But Ricky WONG told me on that day that on the same day the Government announced that only two licences would be issued, he got phone calls from the Western District and Beijing, asking why his company was not included. How strange! Both Beijing and the Western District rang him up and asked him why he was not included. We all know that by the Western District we mean the Liaison Office of the People's Republic of China and we were surprised that it was so concerned about this matter.

It transpires that all along we have been blaming LEUNG Chun-ying wrongly, thinking that he got an order and so he had to bear all the blame ...

(Some Member said Beijing was blamed wrongly)

What? Is Beijing blamed wrongly? Maybe Beijing is blamed wrongly, or the Western District is blamed wrongly. This is what Ricky WONG told me when we were talking in private. So it would be the best if we could summon Ricky WONG so that he can talk about whether it is LEUNG Chun-ying who did not give him the licence or Beijing which did not give him the licence.

Please allow me to say something more. Last year after the Legislative Council elections were over, Ricky WONG told me that Charles and some other Members were lobbying. To be fair, his lobbying is about one matter and in the many talks we have had on licensing matters, he has never lobbied me to support issuing a licence to his company, not even once. He pointed out every time that the Government had delayed for almost 1 000 days without granting any licence. This is true. The Government had been handling the matter at a dead slow pace and three years were spent in licensing. So after the commencement of the last Legislative Session, Ms Claudia MO proposed a motion in this Council to urge the Government to issue licences, though it was not specified to whom the licences should be issued.

At that time Ricky WONG was full of confidence, and in fact he shows that he is full of confidence at all times. He thought that the BA should be recommending that three licences be issued. Of course, we know what happened subsequently. At that time, I told him that the Government might issue two licences instead of three and when that time comes, he would certainly be the loser. But he was still full of confidence. This is because he had read the relevant reports. Then during the middle stage to the last stage of the event, I told him that if it turned out really that only two licences were to be issued, he would certainly lose in the battle. Then he replied that he had read all the reports and none of the reports showed that his company ranked the last. Even if his company did not rank first, none of the reports showed that his company ranked the last.

If what Mr WONG said is true, then the decision made by the Executive Council is first to overturn the recommendation made by the BA and issue only two licences instead of three. Then when the Chief Executive came to this Council for a Question and Answer Session, I asked him why the company ranking second was ousted — actually his company might rank first — instead of

the company ranking third? It is reasonable when a student who is placed in the last of his class fails to get promoted. But now the case is the person ranking the last can be promoted while the one ranking the second cannot be promoted. Then an explanation will have to be sought for the host of factors considered by that "one single man".

The Secretary has said repeatedly that the matter should not be politicized. But if we check the Broadcasting Ordinance, why should the design be such that it is the Executive Council which will make the final decision? Because the BA is a technical entity and it has the duty of conducting assessments of all technical factors and then presenting the recommendations and assessment results to the Executive Council for decision. Then what factors will the Executive Council consider? Political considerations. I find it strange that if political factors are to be considered, the most important one is the factor of Beijing. If what Mr WONG said is true, then it seems now there is only the political factor related to this "one single man".

This conclusion is baffling to me. It is because the technocrats recommended issuing three licences, now the experts and consultants have come out and argued with the Government, saying that the Government has distorted their meaning. Then the Government argued that after the consultancy has finished its work, the Government has made some inquiries, but nothing is said regarding the question of apart from this consultancy, were other consultancies also hired to engage in the study? If the answer is "no", then has the Executive Council assumed the role of experts? Of course, it will not and there is no one in the Executive Council who is in the television business, right? And as far as I know, there is also no one who is engaged in consultancy work.

Therefore, the conclusion seems to be very straightforward, and that is, it is the own doing of that "one single man". Although I do not want to use this word to describe him, I cannot help but say that he may be crazy. Actually, we should summon LEUNG Chun-ying to see if he is really crazy. This is because the expert consultants and the political factors all say that three instead of two licences should be issued. Some newspapers have even reported that the three Secretaries of Departments all agreed that three licences should be issued. But in the end, this "one single man" decided to issue only two licences. Why does this man want to issue two licences? I think we have to apply a bit of our imagination.

As a matter of fact, throughout this more than one year after he has assumed the office of the Chief Executive, he finds himself in a very precarious position in many matters. At first, people thought that he was a remarkable person, but the Secretaries of Departments and Directors of Bureaux appointed by him proved to be a makeshift group of officials. Then there are numerous blunders in administration in the following year and his popularity ratings kept on falling. I am sure, according to his analysis of the situation, the worse the governance in Hong Kong becomes and when society tears further apart, the chance of his staying in office will become greater. So in a bid to tear Hong Kong asunder, he decided not to issue three licences, and instead only two.

President, I think we will lose as usual in this motion debate, so we cannot help but feel disappointed. The Chairman of the CA, Mr Ambrose HO, said in a hesitant way that he did not feel completely discouraged. When he talked about his position in a meeting of the Legislative Council Information Technology and Broadcasting Panel, he said that he would not wish to stay in this position for long. I think I remember this remark correctly. If a technical department sees its decision overturned by the cabinet at the topmost echelon of the Government, we can say that this has rarely happened. And there is no explanation from the Government. These people who fly balloons for the Government are authoritative persons and it seems that they are keeping a distance from the decision made by the Government. It seems that nothing is their concern. Of course, there are one or two members of the Executive Council who are staunch supporters of the decision made by LEUNG Chun-ying.

President, I hope Members can lend their support to this motion so that Ricky WONG can continue with giving his defence or explanation, especially regarding the point why a company which is ranked second instead of third is ousted. The fact is much different from the Government's claim, and if Ricky WONG can come and give his version of the story, I am sure many of the remarks made by the Secretary may be proved to be inconsistent with the facts.

With these remarks, I support Ms Claudia MO's motion.

**MR ABRAHAM SHEK:** President, tonight's motion is likened to a Legislative Council luncheon or dinner that we have every other Wednesday. Ms Claudia MO's words sound very appetizing, but if you eat more than your fair share, you



will get indigestion. Unfortunately, the Secretary's response is likened to a "隔夜油炸鬼" being re-microwaved, which is dry, untasty and unedible.

The turmoil caused by the issue of free television programme service licences has continued for nearly two months now. Public dissent against the Government's decision has reached a level rarely seen over the last few years. President, the present Administration is funny and different, we can never understand it. I believe the Special Administrative Region (SAR) Government was not only careless but also inapt in its handling of this issue. The Government's defense appears to be contrary to Hong Kong's core value of free market principle and ignores the feelings of the people of Hong Kong. Its decision simply goes against public aspirations inspired by the openness of the then CY during his election campaign — he brought us to a very high level of expectation. Now, when we cannot see that it is coming in our way, there is a lot of reaction to that.

Indeed, the public has not accepted the Executive Council's decision. I still believe that we should not exercise the powers conferred by the Legislative Council (Powers and Privileges) Ordinance to intervene in the Executive Council's decision unless it makes a catastrophic pronouncement. We should adhere to and uphold the traditions of the executive-led Government. Unfortunately, again, the present Administration is neither traditional in its approach nor outstanding in its action, and has thus caused all these confusions. Repeatedly, we are seeing this very often in our debate in the Legislative Council. An intervention by the Legislative Council, as I see, would only jeopardize the relationship between the executive and the legislature, and would not bring about a practical resolution. Needless to say, such an intervention would only set a precedent that could have catastrophic consequences. As we all know, disputes over land development, environmental protection — as we have just debated earlier — and reclamation could trigger further confrontations between the Executive Council and the Legislative Council if the Executive Council's decisions do not meet the aspiration of the Hong Kong citizens. Every simple administrative measure during the past year that the Government put forward to the Legislative Council has become an issue of governance. This is not healthy.

It has been reported that Mr Ricky WONG might apply for a judicial review of the Executive Council's decision on free television licences within the next three months. Passing today's motion and authorizing a Select Committee to exercise the powers conferred on it by section 9(1) of the Legislative Council

(Powers and Privileges) Ordinance would only infuse the situation with conspiracy and confrontation, since there is already widespread speculation about the reasons behind the decision. Most importantly, in the eyes of the public, the credibility of the Courts of Hong Kong is far higher than that of this Council. Therefore, I truly believe that a judicial review probably is a just and convincing means of handling this issue.

President, "sad" and "sorry" are the only words I can say on the issue of free television licensing. First of all, territory-wide mistrust and feelings of anguish have once again been triggered, demonstrating the Chief Executive's and the Executive Council's serious lack of understanding of public aspirations. The difference between them is not just a narrow gap — they are poles apart. The Government's decision was arbitrary and its subsequent explanations were unconvincingly childish, even for a veteran pro-establishment lawmaker like myself. I cannot understand the reason of its explanations. Frankly, this is the very first time during the last few years that a single decision by the Executive Council has triggered such a society-wide upheaval. Probably, this is the beginning of a new era for us to see more of this.

The former Chief Justice, Mr Andrew LI, has said that Courts were not the proper channel to resolve complicated political, economic and social problems. He said that he found it ironic that Members of the Executive Council, as well as those of the Legislative Council, have urged a judicial review to deal with the television licensing issue. Mr Andrew LI's wisdom has never been challenged, probably except at the NPC level when he made his judgment on the case of NG Ka-ling. Mr Andrew LI is a wise man and we should listen to him. Sending so many political, economic and social disputes to the Courts only proves the weakness of our local governance and incompetence of the SAR Government. To uphold the governing architecture and safeguard the constitution of the Executive Council, it is a pity that the SAR Government has to resort to a judicial review to settle this dispute, which could easily be handled otherwise.

Last but not least, President, I greatly regret that I saw no sign of the much-needed political sensitivity and awareness from the Administration in handling this issue. Should we not all learn by experience? If the Administration and its governing team really rule in such a reckless and disdainful manner, I believe that those responsible for the ultimate fall of Hong Kong will not be those opposed to China or those who have stirred up trouble in Hong Kong.

My criticisms today come from the depths of my heart and I hope that Hong Kong could have a steady and stable Government following the principles of stability and prosperity for Hong Kong. My opposition to today's motion is not aimed at defending the Administration, but at protecting our constitution and the governing structure, which are bestowed upon us by the Basic Law. An investigation conducted under the Legislative Council (Powers and Privileges) Ordinance would not give us the truth, but political conflict, suspicion and confrontation. Probably, we can only find the truth in the Public Accounts Committee — I am just joking. It is very difficult to find the truth. The truth lies within ourselves, and to find a solution, the only way is for the Government and the Hong Kong people to have the interests of Hong Kong in mind. What is the truth? Let it lie inside there.

To find a solution, the Government at least should listen to the people of Hong Kong. As a Hong Kong citizen who yearns for prosperity and stability, I sincerely hope that the Chief Executive and his SAR Government will learn from this issue. Hong Kong should not be ruled by individuals, but by laws. It is the only way to win back support and confidence from the public and the investors, be they local or foreigners, in Hong Kong.

Thank you, President.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, first of all, I would like to thank Ms Claudia MO for bringing up this subject again to allow the legislature to discuss it. I very much appreciate Ms Claudia MO's determination in taking this action when people think the incident has already come to an end and where she may be criticized for "hying" the incident. Such determination is not easy to come by indeed.

President, I support the spirit of Ms Claudia MO. Actually, I am not only supporting her but also a group of staff from of the Hong Kong Television Network Limited (HKTVN) behind her who are still persevering in the fight. These staff members have not given up to date, and they are still persevering in finding the truth of the licensing incident. However, they seek to not merely find out the truth. I recall on the night of the "switch-off television movement", some staff members from the HKTVN came to housing estates to watch the programme Police Boundaries ("警界線") with the residents there and shared their feeling with the residents. They shared a very important viewpoint with us. They said they were not merely striving for a licence and their most important

concern was to strive for justice. They considered that justice had obviously been trampled on in the incident, so they must continue to strive for justice.

Since the establishment of the SAR Government, justice in Hong Kong has been trampled on continuously and repeatedly under the incomplete and abnormal political system. In the present incident, why do these staff members insist on fighting on? They are not simply aiming to secure a television licence; they are seeking to safeguard a very important concept, that is, "justice". For this reason, I fully support Ms Claudia MO proposing the motion today. The incident involves not only the staff but also the public. It is a simple and general issue concerning people's livelihood. The public simply wants to have more desirable television services, but this simple aspiration of the public is not matched, so they cannot but ask why.

Regrettably, the Secretary and the SAR Government have hitherto failed to resolve the mystery and answered all of their queries. This is the greatest problem troubling the public. They have seen that Ricky WONG has made an effort and invested resources to obtain the licence, while the other two TV stations have simply followed the general procedures to apply for the licences, but it turns out that the applicant making the greatest effort is rejected. They really want to know the reasons. However, as I said earlier, the Government has failed to provide a clear explanation to date. This is the greatest problem and this is why we keep requesting that an investigation be conducted to find out the truth.

In fact, the motion proposed by Ms Claudia MO today is not related to the SAR Government and the Secretary. Why? The content of the motion is about ordering Ricky WONG to come before a select committee to produce the relevant documents, so the Government is not involved, and since the persons to be summoned are not government officials, there is indeed no need for the Government to speak. But since Ms Claudia MO's motion includes another significant point which is to inquire into whether or not the SAR Government has violated the fundamental concept and principle of free market with fair competition of the television licensing policy by summoning the two persons to come before the committee. So far, we have been seeking the truth on this premise, but regrettably, our efforts are in vain. The general public cannot accept that the incident should end this way. This is the reason why we support Ms Claudia MO's motion today once again.

The Secretary has pointed out in his earlier speech that there is nothing that warrants an investigation into the incident, and even if an investigation is conducted, it will only be a waste of time of the executive and the legislature. This is the first time I heard the Secretary say this. President, more often than not, the time of the executive and the legislature has been wasted, but whether or not it is a waste depends on the perspective adopted by us. From the perspective of the Secretary, it may be a waste of time, for he has to defend his stances and principles, and once he has to be investigated, he will naturally consider this a waste of time. However, from the perspective of society and the public, it is definitely not a waste of time, for we have a more important principle, justice, in mind which I have mentioned earlier. If the upholding of justice is regarded as a waste, it simply reflects that the Government utterly ignores justice in its actions, otherwise, it would not have regarded this as a waste of time.

The Secretary has also mentioned that if the Legislative Council requests the examination of documents, it will damage the confidentiality system of the Executive Council. But on the other hand, he has said that if the case is taken to the Court for adjudication, they will co-operate. What does he mean by co-operation? Does he mean that the authorities will produce all the documents? If the authorities are going to do so, will it damage the confidentiality system of the Executive Council? If the answer is in the negative, what are the justifications? I do not see why it will not be so. In both scenarios, it involves the disclosure of documents, so why will the disclosure at this Council ruin the confidentiality system of the Executive Council but not the disclosure in court? It is entirely unconvincing and incomprehensible. Therefore, the justifications put forth by the Secretary are ill-founded. I do not know why he has to make such untenable remarks.

No matter how, we must find out the truth of the case. Mr SIN Chung-kai revealed earlier that Ricky WONG had said unexpectedly that even Beijing and the Liaison Office of the Central People's Government in the Hong Kong SAR doubted and did not understand why he was not granted the licence. The incident has induced many conjectures in the community, and these conjectures will cause instability in society. Why can the Government be so indifferent and why has it not made an effort to solve the problem but allows it to persist? Therefore, if the motion is passed today, we can invite the two persons concerned to produce the documents to the committee. By then, the truth of the incident will be revealed and Members will understand the actual circumstances of the

incident. What is so bad about this? Why should the problem be covered up? Why should the authorities play the ostrich? I find this really baffling.

The urge for the conduct of an investigation into a case so that the truth will be revealed to the public is indeed the proper attitude a person should adopt in conducting oneself. But why does Government choose to cover up and blur the truth of the incident deliberately? If the truth of the incident is not found and revealed, the file on the incident will not close. It will become a time bomb which may trigger chaos in society in future. What the Government is doing now is actually gathering the powder for the bomb. Many staff members from the HKTVN have told me that they will take to the streets on 1 January. However, I think marches will not only take place on 1 January, and more marches will be mobilized in future. As long as the truth of the incident is not found and when justice is not upheld, people will surely take to the streets, for society will not give up and let go so easily. Therefore, I implore Members in the Chamber to support Ms Claudia MO's motion, so that the truth of the incident can be found as soon as possible and justice can be done.

With these remarks, President, I support Ms Claudia MO's motion.

**MR JEFFREY LAM** (in Cantonese): President, four weeks ago, the motion moved by Mr Charles Peter MOK on invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to obtain information related to the granting of free TV licences by the Government and the amendment moved by Mr Dennis KWOK were negated by the Legislative Council after 12 hours of debate.

Four weeks later, today, we are again debating a motion that is similar in content, only that its wording is different. Together with the discussions in the House Committee, this is already the fourth occasion on which the same subject is being discussed, so whether or not the controversy over the grant of free TV licences should be dealt with by invoking the P&P Ordinance has been discussed repeatedly.

President, I understand that the issue of granting free TV licences has aroused public concern. However, should the "imperial sword" of the P&P Ordinance be deployed for the incident this time around? Should we draw this

"imperial sword" to threaten the Government for the slightest reason? I think this is really debatable.

President, Hong Kong is a commercial society. From the commercial point of view, the granting of licences by the Government this time around did not just involve the HKTVN but also two other applicants. They both submitted a great deal of commercial information to the SAR Government on account of their applications for licences this time around. We can imagine that the information perhaps cover the financial information, manpower arrangements, business development, investment plans, and so on, relating to these companies.

We need a confidentiality system. If this confidentiality system is gone, may I ask which commercial organization would still be willing to submit important commercial information to the Government for scrutiny? If the information kept confidential nowadays will be disclosed because of the pressure from political controversies in the future, may I ask how commercial organizations would have any more trust in Hong Kong in the future? How would overseas investors dare come to Hong Kong to make investments?

Moreover, the parent companies of the companies applying for free TV licences this time around are all listed companies. In Hong Kong, the commercial information of listed companies, in particular, confidential and sensitive information, is all protected by law. If their commercial secrets and confidential information are leaked in the course of the hearings, this may trigger fluctuations in the stock market and cause losses to investors, and even our financial stability would also be impacted. In that event, who will assume responsibility for this? Therefore, we must safeguard the principle of commercial confidentiality, so the relevant information cannot be disclosed

Although the motion proposed by Ms Claudia MO this time around stresses in its wording that the P&P Ordinance is to be invoked to order Mr Ricky WONG and the relevant officers of the Communications Authority to give evidence, we should all know that if we want to investigate a matter thoroughly, it would actually be very difficult to learn about all the facts based solely on the assertions of one person, a couple of people or some of the people involved in an incident and the documents submitted by them. If it is hoped that by invoking the P&P Ordinance this time around, some commercially sensitive information or even some confidential information can be disclosed through the evidence given by

some people, this is actually a raid on the confidentiality system, and I do not agree with this course of action.

President, concerning this incident of granting free TV licences, I have indeed heard many voices. I understand that many members of the public hope that the Government can make improvements to its approach in dealing with the licensing incident. However, the relevant officials have already given further accounts of the criteria for and the details in relation to granting additional free TV licences. In fact, under the principle of defending the system of the Executive Council and non-disclosure of the commercially sensitive information, the Government has already given accounts of the criteria and justifications for the relevant decision by all means.

The P&P Ordinance confers extensive powers on us to order anyone here to give evidence and obtain records and papers covered by the scope of inquiry. If we can make good use of it, of course, this would help the Legislative Council in performing its function of monitoring the Government. However, if the P&P Ordinance is abused frequently, the consequences would be dire.

In the 16 years after the reunification, the Legislative Council has invoked the P&P Ordinance on several occasions to conduct inquiries into incidents of public concern. However, the current-term Legislative Council has been in operation for only 14 months but it has already discussed on a number of occasions if the P&P Ordinance should be invoked to look into some incidents. Even in relation to this incident of granting free TV licences, discussions have already been held on four occasions. If we keep splitting and changing the words of subjects that have already been negated in order to have discussions on them again, apart from continuing to hype the incident, what practical point is there in doing so?

In fact, at present, there are many issues in society, for example, issues in housing, education, an ageing population and even the overall development of the Hong Kong economy, that merit our discussion. It is preferable for us to devote our time and effort to issues in these areas, rather than keep repeating and splitting motions that have already been negated by us as a matter of principle.

President, many people have reflected to me that the Legislative Council



may not be the most suitable venue for resolving the controversy over the grant of licences because not only will using the P&P Ordinance to intervene in this incident impact on the proven confidentiality system of the Executive Council, it will also politicize the whole matter, which is not conducive to resolving the issue at all.

I understand society demands that the Government should display greater transparency. However, should this "imperial sword" of the P&P Ordinance be deployed, the underlying price is indeed much too heavy. President, I so submit.

**MR LEE CHEUK-YAN** (in Cantonese): President, of course, we in the Labour Party support the motion proposed by Ms Claudia MO today to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an inquiry because the whole incident is an unjust case and what we want to do now is to look into the cause of death, hoping that a "Coroner's Court" can be convened in the Legislative Council and it is as simple as that. Just now, Mr Jeffrey LAM said that in this world, there were many other things that could be done and that we should be concerned about healthcare, housing and education. Does he mean that our concern about whether or not justice was upheld in granting free TV licences and whether or not the public have one more TV station to choose from is unimportant? Of course, I do not mean that the other issues mentioned just now are unimportant. In fact, as Legislative Council Members, we believe all issues are important but his style is that if he wants to oppose or vote against a certain issue, he would say that we had better spend the time on discussing other issues.

Frankly speaking, I have not seen him make a great deal of effort to care about our housing problem. All that he cares about is opposing the curbs measures but I did not find him caring a great deal about flat production, nor did I find him very concerned about 15-year free education. Then, no sooner had we started discussing the issue of TV licences than he said that we should be more concerned about other issues, as though we were wasting time in discussing this issue. However, the whole issue is actually very important. For one thing, it is about the right of the public to choose, that is, the issue of whether or not the public have choices. Throughout so many years, one TV station has been in dominance and the public cannot stand this anymore. Apart from the fact that

the public have no choices, the domination by one TV station is also dealing blows to the innovative and creative industries as a whole. People in Hong Kong who want to embark on a career in these industries lack prospects and all artistes are subjected to the manipulation of TVB. Now, with one more TV station to choose from, at least, one can avoid being manipulated by TVB and for the young people, there is one more choice. However, he did not give any consideration to this aspect, as though he still thought that this does not matter.

He often suggests that it is necessary to diversify the industries in Hong Kong, including the creative industries, and this is precisely an issue related to the creative industries, so why did he not support it? It turns out that the business sector considers this issue to be unimportant. President, I think there is no reason for letting this incident of granting free TV licences slip by easily because this incident is really an unjust case, a true injustice. In particular, he queried why, since this issue had been debated four weeks ago, it is again raised for discussion now. Had we won four weeks ago, of course, there would have been no cause for raising it again now and an inquiry would have been launched by now. However, the reason cited four weeks ago was that the confidentiality system of the Executive Council should by no means be impacted. All right, now, we are not going to impact on the confidentiality system of the Executive Council, but they still say that this would not do. President, four weeks ago, after the conclusion of that meeting — as far as I remember, it was probably 6 November — a meeting of the Panel on Information Technology and Broadcasting was convened, attended by the representatives of the Communications Authority (CA), who talked about this issue. Or rather, they did not talk about this issue but submitted a paper.

The contents of this paper and the subsequent comments made by the person in charge of the consultancy concerned enabled us to see the injustice in this issue. I think one point raised by the CA was quite important, that is, throughout, the CA had supported granting three free TV licences. All right, if the grant of three licences was supported throughout, why was the number changed from three to two? Last time, we kept asking Secretary Gregory SO the reason for changing the number from three to two many times, but he could not give us an answer. As we learnt from the CA, in this process, the Government had actually deployed all kinds of political tactics — just now, Secretary Gregory SO said that we were playing politics but in fact, it is precisely him who is doing so — to try to force the CA into agreeing with changing the number from three to

two, so the CA had been asked frequently if it agreed with changing the number from three to two. The CA said that it did not agree, or that would not concern itself with this problem. For this reason, there was nothing that the Government could do, so it just rode roughshod over the CA. I believe that this approach of riding roughshod, as I said on the last occasion, was against the law because the legislation provides clearly that before making any decision, it is necessary to consult the CA. If the CA had been consulted and it had said clearly that three licences should still be granted but subsequently, the number was changed from three to two, were the views of the CA ever respected? What is the point of setting up the CA? The CA was unwilling to act as a rubber stamp, so it was just cast aside. Therefore, I have to commend the CA because at least, it is not a rubber stamp. The CA was unwilling to act like a rubber stamp, so it was cast aside, then the number was changed from three to two all the same. This is a violation of the legislation because the legislation requires that consultation be conducted. Of course, the Government can refute by saying that seeking advice does not mean that after consulting the CA, it must agree with the CA's views, but what is the spirit of the whole piece of legislation? What is the point of setting up the CA in the first place?

Therefore, the first point is that compared with the last time, I believe new information has surfaced. At least, the CA has pointed this out. The second point was raised by the consultancy. The consultancy said that when preparing the consultant's reports, it always had three licences in mind and also believed that three licences should be issued. Subsequently, as soon as the Government rejected the application made by Ricky WONG, it cited the consultant's reports in which it is said that three licences are also acceptable out of context and distorted it in order to stifle the HKTVN. The consultancy was actually talking about another matter, but the Government distorted it to mean that it awarded points and that Ricky WONG failed to make the grade. In fact, clarifications in relation to the consultant's reports were made and it was stated clearly that the consultancy did not have the duty to point out which of the three applicants did not qualify and that it never considered this aspect. The authorization or guidelines received by it did not require it to consider this aspect. While preparing the report, the consultancy had the granting of three licences in mind. Subsequently, the number was changed from three to two and the contents of the consultant's reports were cited and distorted arbitrarily, so as to justify changing the number from three to two, thus leading the public to think that this is actually stated in the consultant's reports. However, what the consultancy refers to is another matter altogether and it is totally unrelated to changing the number from

three to two or evaluating which applicant should be eliminated. This point was also spelt out very clearly.

Now that these two new pieces of information are available, if Members still do not support invoking the P&P Ordinance to conduct an inquiry, I do not know what other justifications Legislative Council Members who voice their opposition have. Of course, regarding the justifications cited by Mr Jeffrey LAM just now, they make me think that he has a mental problem, that is, that of "economic collapse paranoia". He went so far as to say that if we conducted an inquiry into this incident involving commercial secrets, should the commercial secrets be leaked, this would send repercussions through the whole stock market and lead to the collapse of the whole financial system. Wow! He is paranoid to such an extent and I could hardly imagine how he can elevate this issue to such a plane. I think he is really astonishing in being able to make this kind of remarks. We all know by common sense, if there are really commercial secrets ... do not think that Legislative Council Members would act rashly, and do not insult yourself. Should certain matters be divulged? We also discussed this frequently when holding meetings in the past. If certain matters could not be divulged, we would just deal with them internally among ourselves. The President also knows that in fact, many matters do not really amount to secrets but are just reports. In particular, in respect of consultancy reports, the commercial secrets have been screened before they are released, so the contents are all hard facts. What commercial secrets are there? It looks as though he were saying that after the reports have been read, all secrets would be leaked and we would surely be doomed. Therefore, what grounds do they still have? I think they have practically no leg to stand on, so much so that they cited the collapse of the financial system as the ground, accusing us of leaking all the commercial secrets. This is really somewhat over the top.

However, the most outrageous thing of all is that he claims to represent the business sector. I wonder if the business sector would find being represented by him disgraceful. Why? It turns out that fair competition is not what the business sector values the most. Mr James TIEN can give me a reply later because I know he will speak later on. Does the business sector value fair competition? Since they have spent money on investments and Ricky WONG is also a businessman who spent money on buying land and hiring more than 700 people, no matter how much money he invested, it is still money and his investment all the same, so why do you people not even protect investors? I do not understand it, but it seems you only want to protect the two existing consortia.

I do not know whom you represent. You do not even stand for such fundamental things as fair competition. Is Ricky WONG a member of the Hong Kong General Chamber of Commerce? Do you care just about your own members? I do not know. Maybe those two other companies are its members. In that case, you had better declare your interests by saying that those two companies are its members, whereas Ricky WONG is not. Or is Ricky WONG also a member? I really do not know. Even the business sector does not attach any importance to such fundamental things as fair competition. Everyone knows that I do not fully support certain matters. I do not fully support free market. However, the business sector loves to support free market and the incident this time around is related to free market and fair competition, so why do you not even support this? In that case, I just do not know what you would support.

Therefore, President, I do not know what other grounds the pro-establishment camp has for voicing opposition. This time, we are not targeting the Executive Council. We just want to obtain the report concerned and the papers of the CA, and it is as simple as that. If Ricky WONG is protected by the P&P Ordinance, he can disclose more and at least, he can lay the truth before the eyes of the general public. In this regard, I believe justice has not been done. Not only has justice not been done to Ricky WONG, justice has also not been done to the most important core value of Hong Kong — fair competition.

Lastly, we also know that in the final analysis, the cause of the entire issue lies in "one single man". Just now, Mr SIN Chung-kai divulged a secret. It turned out that Western District and Beijing had no knowledge of this matter and even took the step of ringing up Ricky WONG to ask about his "cause of death". I have no idea how Ricky WONG replied. If I were Ricky WONG, I would say, "I died in the hands of one single man.". The question is: Why did this "single man" want to doom him? If I borrow the words used frequently by the *Wen Wei Po* to inveigh me, "Did he harbour any malicious intent?" What kind of malicious intent did he harbour? Does he want to sow even greater confusion in Hong Kong? He does not care about his popularity anymore because no matter how, his popularity is doomed, so he thought he had better make Hong Kong even more chaotic and turn society into a shambles, so that all of us would lose confidence in the Government and in turn, lose confidence in the constitutional

reform, thus reducing the constitutional reform to a shambles as well. Is this what he wants? I really do not know. However, it seems that sometimes, we cannot blame the public for looking at LEUNG Chun-ying in the light of a conspiracy theory because he can even go so far as to do such a thing, and all of us really cannot make head or tail of it and the reasons for doing so. President, since there is such a lot of injustice in the whole issue, I absolutely support invoking the P&P Ordinance to conduct an inquiry. Thank you, President.

**MR JAMES TIEN** (in Cantonese): President, the question under debate is the recent issue of granting free TV licences.

We have also noticed that in the past four decades, the Government did not issue any new free TV licences. Ever since we were small, we have been able to watch only the Television Broadcasts Limited (TVB) and Asia Television Limited (ATV). Of course, I think that when I was small, the programmes that I could watch on TVB and ATV were far greater in number. Nowadays, there are also now TV and Cable TV. I am relatively speaking better off, so I can afford to watch pay TV and watch the programmes on other TV stations, but the general public cannot. For the great majority of residents in housing estates, if they do not want to pay an extra several hundred dollars each month, they can only watch TVB and ATV. After discounting the two English channels, there are only two Chinese channels, so the public really have limited choices. For this reason, there are voices in society calling for the introduction of a few additional TV stations that offer more programmes with better substance and greater production capabilities, and this is also reasonable. In fact, the Government could also see this. If not, why would it propose a study on the need to grant several additional free TV licences in 2007, 2008 and 2009? This is precisely because the Government found that there was such a need.

Ever since this was mooted in 2009, of course, Mr Ricky WONG of the HKTVN has invested a particularly large amount of capital. Concerning the site in Tseung Kwan O, at that time, the land was granted to him by the Hong Kong Science and Technology Parks Corporation controlled by the Government. It was stated explicitly that the land was slated for the broadcasting industry and of course, it was due to his intention running a business in this industry that he was allowed to try his hands. Now, although there were three applicants, the Government decided to issue just two free TV licences but against granting a

licence to him. He thinks that since he was not granted a licence, does it mean that he had received the lowest score? If the score for him was the lowest, from a commercial point of view, it means that he is no match for the other two, so of course, it is not possible for him to run such a business. However, at present, this is not the case and no one dares make such an assertion.

We have held a number of meetings and two of them were those of the Panel on Information Technology and Broadcasting — there is not any Member of the Liberal Party in it — I listened carefully to these two meetings and one of them was held on Monday (21 October). Not to mention the way the Government dealt with the Legislative Council or the pro-establishment camp in the Legislative Council, something is already greatly amiss in the administrative approach taken by the Government. Why? We can see that after the announcement on this matter and after Members of the Executive Council (including the Convenor, LAM Woon-kwong, who arguably plays the role of a consultant in the Executive Council) had voiced their views, the decision of the Government — I just do not know who represents the Government — the Chief Executive said that the Executive Council represented the Government and that the decision was made by the Executive Council — but why was this matter referred to the Executive Council? As we all know, the present operation of the Government is that this matter was dealt with at a lower level, that is, by the Commerce and Economic Development Bureau under Secretary Gregory SO, then referred to the existing Communications Authority (CA), that is, the former Broadcasting Authority (BA), for study.

During the period of study by the BA, of course, a consultant would be commissioned to provide information or offer advice to the Government. As we all know, the great majority of consultancy reports are dictated by what the Government wants. When the Government hired a consultant to study the need to build a third runway, of course, the consultant believed that the Government wanted to build a third runway. For this reason, the report produced would cite a lot of justifications for the construction of a third runway. Therefore, I am convinced that the situation is like this: When the Government instructed the consultancy to prepare a report, of course, it would say that four decades had already passed — sorry, at that time, it may be 37 or 38 years — but there were only two TV stations, so this was not quite all right. Has the GDP of the Hong Kong economy or the advertising revenue from various trades and industries remained at the sum of \$3.5 billion or \$3.6 billion in 2007, 2008 or 2009, or has it reached the sum of \$3.8 billion in 2011-2012? If several TV stations are added,

the types of programmes would be more diversified, and I believe there will surely be more advertisements. With more advertisements, four or five TV stations can surely be accommodated. What are the grounds for eventually not granting a licence to the HKTVN? Furthermore, the score of the HKTVN is not the lowest and this is why so many problems have arisen now.

Recently, the Chairman of the CA, Mr Ambrose HO, dared not attend a meeting of the Panel on Information Technology and Broadcasting for this issue. However, the day before yesterday, he had to come to the Legislative Council to answer questions in relation to TVB. Of course, Secretary Gregory SO was also present on that day, but I think he is really miserable now. Because of this issue, his popularity rating has plummeted to the rock bottom. In fact, why did the Government have to do so? It was unnecessary indeed. Next, let us look at the inquiry demanded by the pan-democratic camp. Our view now is different from that several weeks ago. The Liberal Party thinks that by invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an inquiry, of course, it is hoped that some matters can be uncovered to prove that the Government has dealt with this matter inappropriately. However, all the existing information, from that provided by the consultancy to that provided by Chairman HO of the CA, and even the replies given by the Government to questions — I believe Secretary Gregory SO has had a hard time giving explanations, forcing himself to give answers, vague answers, just trying to pull through — and the public can see all these. Had the public believed that there was nothing wrong with the Government, the popularity rating of the Chief Executive would not have hit a new low and the popularity rating of Secretary HO — Sorry, I mean Secretary Gregory SO — would not have hit a new low because of this issue either. In fact, what Members want to look into is just the inappropriate approach adopted by the Government. Since the public agree that the Government has done something inappropriate, if Members invoke the P&P Ordinance to conduct investigations, after the inquiry has been completed, what then? The Executive Council still would not grant a licence to Mr Ricky WONG.

Coming back to the question, on the very first day, the Liberal Party came forward to say that it believed the Government should grant three free TV licences and that we should lobby by all means for the grant of a licence to Mr Ricky WONG. If this is the aim, there is also no need to conduct any inquiry. This approach can be adopted directly to make the Government grant a licence to



him. I also understand why Members of the pro-establishment camp take exception to the conduct of an inquiry because the inquiry is not intended to enable Mr Ricky WONG to get a licence. The process of the inquiry is intended, as many Members of the pro-establishment camp said, to cause embarrassment to the Government and make it even more difficult for the Government to back down. In fact, the Government has already lost a great deal of face, for it could answer practically none of the questions, so the result of any inquiry would just be no different.

President, last time, I spoke for two minutes in the House Committee and at that time, the President was not present, so I will repeat my views here. On that day, I said at the meeting of the House Committee that in fact, the pan-democratic camp was not a "toothless tiger", rather, they had an "imperial sword", only that this "imperial sword" should not be used for this purpose. If we look at the politics in overseas countries, when the opposition and the ruling party have a wrangle, are all matters dealt with through discussions like the way they do?

I have also noticed that on the issue of universal suffrage, the pan-democratic camp often uses the term "genuine universal suffrage" to describe it. Now, I doubt if you really want to lobby for a licence for Mr Ricky WONG, or if this is not the case. If you really do, Ms MO, I will make a suggestion to you. You can use the "imperial sword" to lobby for another thing that the Government badly needs, that is, a political compromise between you and the Government. You can call this a political deal, but in overseas countries, it is very common to do so.

Let me cite another example. On that day, I also mentioned the ObamaCare, or the Patient Protection and Affordable Care Act, of the President of the United States, who had been unable to win support from the Republican Party of the United States. Subsequently, the Republicans forced President OBAMA to promise not to increase taxes, then voted in favour of his ObamaCare.

The same also applies to you. I believe that at present, the greatest concern of the Government is not whether or not to grant a third licence. What the Government cares the most about is housing and this is the most important issue. Poverty alleviation comes second, healthcare comes third and environmental protection comes fourth. The Government is most concerned

about the housing problem now: Without sufficient housing supply, property prices will continue to rise, so the Government has to take measures to curb them, that is, to introduce the so-called "curbs measures". Concerning these curbs measures, the queries raised by many Honourable colleagues in the pan-democratic camp at the meetings of the relevant Bills Committee were very reasonable, but the Government rejected them all. Why do Honourable colleagues in the pan-democratic camp not consider my proposal? They can say to the Government that if no licence is granted to Mr Ricky WONG, they will cast votes against all the curbs measures related to stamp duties. If the Government keeps count of the number of votes, it would know that together with the votes from some Members of the pro-establishment camp, the curbs measures related to stamp duties could not be passed. I believe it is the housing policy that matters a great deal, whereas the grant of a third licence is not.

I think the Government definitely has to consider seriously, and so does the Executive Council, finding another excuse to review this matter to see if Mr Ricky WONG can make a fresh application or what. In the final analysis, it is also possible to make use of the Executive Council to cite another ground for granting a licence to Mr Ricky WONG. In this way, I will believe Honourable colleagues in the pan-democratic camp are really lobbying for a licence for HKTVN. At present, even though they demand an inquiry, after the inquiry, the Executive Council still has the power to refuse granting a licence.

The several barristers are better versed in judicial reviews than I am. In such reviews, the focus is only on the legal procedure. If there is nothing wrong with the procedure of Executive Council and the Government has complied with all requirements, even a judicial review cannot give HKTVN or Mr Ricky WONG a licence. After conducting an inquiry for some time, we may find that the Government did everything wrong and the public may also learn that it did something wrong but still, we cannot enable Mr WONG Kwok-kin to get his licence. The only thing that can force the Government to give him a licence is through the so-called "political compromise" — let us not use this term "political deal" — which is to exchange conditions in politics and such an approach is often adopted in overseas countries. If Ms MO really wants to lobby for a licence for Mr WONG, so that the Hong Kong public can have one more choice when watching television, I call on her to consider my suggestion.

President, for the aforementioned reasons, we believe the Government should not have dealt with this issue in the present manner. As regards the

commercial secrets mentioned by us just now, I also agree with the assertion made by Members of the pan-democratic camp that after inviting tenders, only two of the three applicants were granted free TV licences but no reason was given as to why licences were granted to some existing companies but not Mr Ricky WONG. From the angle of fair competition, the angle of the business sector and that of international reputation, this is a cause for concern.

From another point of view, should we look at the information of the Executive Council? The present motion does not request that information be obtained from the Executive Council. Ms Claudia MO demands that Mr Ricky WONG and the CA be ordered to produce the information and papers, and the level has not reached that of the Executive Council, so how come the question of obtaining confidential information from the Executive Council has arisen? The issue of the papers of the Executive Council was dealt with in the original motion moved by Mr Charles Peter MOK and the amendment moved by Mr Dennis KWOK on the last occasion and in the end, both the original motion and the amendment were negatived.

This time around, the Liberal Party will neither cast its votes in favour nor against the motion, instead, we will abstain. However, I understand that abstention at a meeting of the Legislative Council and doing so at a meeting of the House Committee are different. To abstain at a meeting of the House Committee really means an abstention but in this situation, an abstention can be equated with opposing the motion. Therefore, Members of the pan-democratic camp can consider my position. If you deploy other "imperial swords" or other "tigers with teeth" against the Government when negotiating with the Government politically, do not use the term "deal" but adopts other approaches, there are surely matters in which the Government needs your assistance.

If you look at the several incidents of late, there are many matters, such as the resolution moved by Dr LAU Wong-fat this afternoon ... the Government is very concerned about the land use of Tai Long Sai Wan and you gave it your full support, but the Government did not have to pay any heed whatsoever to you. Take the motion on incorporating Tai Long Sai Wan into the country park concerned as an example, all oppositions throughout the world would do the same thing with the Government. Sorry, Ms MO, you may not agree with my comments. However, the way in which the Government deals with the opposition is perhaps more or less the same as that of the business sector: There is

something that you need and there is something that it needs. You have a great deal of power and in many situations, you still have the bargaining power to make the Government do what you want to do in respect of various types of policies.

With these remarks, President, the Liberal Party will abstain.

**MR CHAN CHI-CHUEN** (in Cantonese): Before I come to my speech proper, I wish to respond to Mr TIEN. I was listening very attentively to what he said in his speech earlier. First, Mr TIEN said that meetings of the Legislative Council and those of the House Committee are different in that casting an abstention vote at a meeting of the Legislative Council is tantamount to casting an opposition vote. In view of this, I think if the Liberal Party can leave this Chamber when the vote is taken in order to reduce the denominator, that would show more clearly that you are neutral, rather than being pretentious by abstaining in the vote. This is the first point. Second, judging from the character of this LEUNG Chun-ying, I think even if we do not support the subsidiary legislation proposed to include the relevant lands into the country parks and even if we do not support the curbs measures regarding the stamp duty, he would still be hell-bent on his own way. He would not admit his mistakes. He simply would not yield by issuing one more television licence. In fact, he already did this before. An example is the Old Age Living Allowance. Mr TIEN, you were just asking LEUNG Chun-ying to relax the limit of the means test, suggesting to set the limit at \$1 million, whereas the Democratic Alliance for the Betterment and Progress of Hong Kong suggested a limit of \$300,000. But LEUNG Chun-ying refused to make the slightest concession and preferred to drag things on, causing the elderly to receive the allowance for a month less and resulting in a situation where no one will come out winners. I think he is not going to budge.

On the issue of licensing of free television service, the Government of the Hong Kong Special Administrative Region (SAR) announced on 15 October this year that only the applications for free television service from Fantastic Television Limited and HK Television Entertainment Company Limited were approved whereas the application from the Hong Kong Television Network Limited (HKTVN) was rejected. From all that we have heard, the Government's reason is no more than four words: "Gradual and Orderly Approach". It said that the Government has to introduce competition in the television market with a gradual and orderly approach, for the Government is concerned that the market might not be able to sustain all five players. It has been more than a month now,

and the Government has still refused to make public the assessment criteria adopted by the Executive Council in rejecting the licence application from the HKTVN. We are not asking to look at the marks on the score sheet, but we cannot even see the format of the score sheet. As for the views of the consultant's reports and also why the Government has "cherry-picked two out of three" in the licensing exercise, the Government has not given a reply so far. Mr TIEN was right in saying that the public can see what is happening. Otherwise, the popularity ratings of the Secretary and the Chief Executive would not have plunged so sharply and the public would not remain to be so much enraged when they talk about this incident now, vowing that they will still take to the streets. This is the mainstream public opinion now.

Today, many Members have said that Ms Claudia MO has made a comeback, but does she not feel bored at all and can she do something new? Television production does need to have novelties, but not quite so for investigations. If the old evidence is all refuted and the arguments can no longer stand, then we need to have new ideas, new developments and new evidence. But have LEUNG Chun-ying and Gregory SO answered our questions? Can they answer these questions? They actually have not answered and cannot answer the many questions posed by us. Mr TIEN then said that he is really a scoundrel. We can all see that he is. But there are only two ways to deal with him. One is to let go. We just could not bite him, could we? But should we just let go and do nothing? If we do, it will be easy for the official. He only have to hold out for a month or so and when the matter has waned in novelty, the people will let go. Those who want to find out what happened can see what happened; those who believe can believe; those who do not believe can refuse to believe; the supporters can give their support; the opponents can put up objection. Public opinions are, therefore, reflected. If that is the case, Members of the Legislative Council will be useless, right? The Government will not be afraid of us.

What if we do not let go? Members should then continue to pursue the case. We should explore all possible ways inside and outside this Council to pursue the case thoroughly. What we have done is actually not enough. Apart from invoking the the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance), we need to come up with some harsher ways. We really must pursue it until we find out what happened. We must not let him try our patience by acting rascally and despicably as they must be thinking, "I am not afraid. My tape recorder can only play back these recordings." When these recordings have

been played back for the third month, could it be that Ms Claudia MO would propose to invoke the P&P Ordinance again? So, I think the "Goddess of P&P" can keep up with her efforts and think about on what grounds a motion on the P&P Ordinance should be moved next time.

When it comes to the right of all Hong Kong people to the choice of television services, we all consider that the HKTVN is most capable of challenging Television Broadcasts Limited (TVB)'s domination and hegemony in the television market and yet, the SAR Government has outrageously left out the HKTVN, which is tantamount to indirectly or even directly allowing the situation of domination by one single television operator to continue. Think about this: A single television service provider in Hong Kong can control the life and death of the entire television industry; it can "freeze" those artistes who are disobedient; it can even order a ban on coverage by other media corporations to suppress the speech of freedom; and it even wants to snatch the name of "Hong Kong Television" from its ousted competitor. It is most domineering indeed. If you look up any book on economics or ask for the view of any economist, you will find that none is supportive of such violation of the principles of free market and fair competition, right?

As regards Asia Television Limited (ATV), it is given all kinds of protection and it can continue to operate from generation to generation despite that it has a viewing rate of only 1% or even 0% and its programmes are replayed over and over again. But ATV's Senior Vice President, IP Ka-po, told us today that this is actually not a "replay" of programmes and that "replay" and "review" are different. "Review" means that we miss the programme tonight because of this meeting and the programme will be broadcast again the next morning for us to watch it, and this is what "review" means. Be it "replay" or "review", this is actually burning the airwaves and burning the frequency spectrum. Such unhealthy ecology of free television can continue because of the results of this licensing exercise. Gregory SO who is in charge of the Commerce and Economic Development Bureau should be held responsible for this incident.

I have actually asked my question many times, but the Secretary has either evaded the question or played back the recordings and then told us that he has already given a reply. The popularity rating of LEUNG Chun-ying has dropped to -31% following the HKTVN licensing incident. The SAR Government has been beating around the bush in the incident of television licensing and acted against the public wish by barring the HKTVN which is supported by the people

from entering the market without offering to us full justifications in explanation. In order to prepare for the launch of the new TV station, Ricky WONG sold his own "son", the City Telecom, and injected several hundred of million dollars into employing a few hundred artistes, renting land for building the production house and producing more than 100 hours of drama series and programmes only with the objective of providing quality public entertainment to the people of Hong Kong. But the dream is now dashed for one television worker after another. The Hong Kong Government is still resolutely vowing to support creation and the creative industries, but it has rejected the licence application from the HKTVN because of "one single man". This is already contrary to its vow to support creation and the creative industries. Even the housewives who usually avoid politics and seldom take to the streets have chosen to join the rally to make clear their position for the sake of watching television. This is why there is the slogan of "better to offend CY than the housewives".

Apart from condemning LEUNG Chun-ying here, we must also condemn Secretary Gregory SO. I very much sympathized with Secretary Gregory SO in the early or middle stage of the incident. It was because we had been putting pressure on him as we found that the issue of the licenses was long overdue. Secretary Gregory SO said that this had nothing to do with him because the scrutiny process had run into some obstacles in the Chief Executive in Council, and this had nothing to do with him as to whether the exercise would be "aborted" or "miscarried". But now, you have gone so far as to act against public wish in order to defend LEUNG Chun-ying. Having said that, from your angle, you may think that this is what you should do since you are paid for your job. You simply cannot explain what is meant by adopting a gradual and orderly approach in introducing competition to the television market. Why should the Government have the duty to protect the survival of a certain television operator?

I remember that I asked the Secretary last month the meaning of "minimizing the risk of any possible adverse impact on the free television market as a whole and avoiding a decline in programme quality as a result of the cut-throat competition which would eventually make the public suffer". He failed to answer it and he has never given any answer. If Ms Claudia MO moves a motion on the P&P Ordinance on the next occasion, I will seize another opportunity to ask him this question: When television operators compete with each other in making investments and in the production of television drama series, and when they compete with each other by offering higher pay to vie for actors and actresses, compete with each other by reducing the advertisement fees,

and compete with each other in attracting a higher viewership of their programmes, why would this have an adverse impact on the market? Why would this lead to a decline in programme quality? What exactly are the factors that would eventually make the public suffer?

As I have said, the Hong Kong audience are actually losers in all scenarios. What have we lost? If the Government refused to issue a licence to another television operator, Hong Kong would have only one television broadcaster, namely, TVB. If the Government issued one or two TV licences, TVB will still exist and it is not going to close down. Most probably ATV will close down, but the audience has long considered ATV non-existent. So what new loss will be suffered by the audience? But given domination of the market by one single television operator, this operator will refrain from making improvement and adopt a frivolous attitude in producing programmes or provide rubbish programmes. To put it bluntly, even if they give you crap, you have to eat it. This is the greatest loss to the audience.

To issue more TV licences is to put an end to the domination by one single television operator, so that more programmes with greater creativity and of higher quality can be produced. TV stations of poor quality will be eliminated in the competition, which is their well-deserved punishment. Even if the issue of more TV licences by the Government will result in the closing down of any television operator, it is, after all, ATV which will probably be closing down at the end of the day. The new TV station joins the market on its own initiative and it must have made all the calculations. It must already knew the risks it face in making the investment and it only has itself to blame disregarding whether or not it will succeed. It will not blame the Government for issuing too many licences, and hence causing them to close down. If the Government issued three licences and if it considers this number to be excessive and is worried about closing down, it should not set up the TV station, right?

What exactly is the adverse impact? When the Government said that this would have an impact on the market as a whole, what does it mean? I asked the Secretary if he was referring to ATV. He said that it was not about the survival or otherwise of a certain television operator. If it is not ATV, then it must be TVB, because issuing three more licences may make it difficult for TVB to do business. Therefore, in order not to affect TVB or in order to protect ATV, the Government decided not to issue an additional licence.



The Government has all along used the consultant's reports as a shield to justify that the Government's decision to "cherry-pick two out of three" is reasonable (and I quote to this effect): "According to the analyses contained in the consultant's reports, the market would be able to sustain the operation of three operators and perhaps four operators under a favourable market condition, but it could hardly sustain a total of five players ... Holding the view that a gradual and orderly approach should be adopted in introducing competition to the domestic free television market, the authorities thus made the decision to cherry-pick two out of three." (end of quote) At the special meeting of the Panel on Information Technology and Broadcasting on Monday, I asked the Secretary this question and he did not give a response then. If they really adopted a gradual and orderly approach, they should not have picked two out of three and they should have picked only one out of three and then gradually grant one licence at a time. How will the Government know that ATV will close down when there is one more player in the market? If ATV closed down, it would blame the Government for issuing two licences which spoiled the healthy competition environment in the market ecology and led to its closure. I wonder whether ATV has the ground to file a judicial review then. This principle of adopting a gradual and orderly approach to cherry-pick two out of three may also lead to the closure of ATV. Of course, Hong Kong people all know that the closing down of ATV would have nothing to do with the Government.

Meanwhile, in the five-page paper tabled by the Chairman of the Communications Authority (CA), Mr Ambrose HO, to the Legislative Council on 8 November, it is stated that the Government has never consulted the CA on the decision to pick two out of three applicants. He also said that the CA had made a fresh recommendation to the Executive Council on granting three licences and the CA considered it in the best public interest to grant licences to those which met the relevant licensing requirements. However, Secretary Gregory SO employed the same tactics again in his speech on Monday. He said that the consultant's reports are only one of the 11 factors considered by the Executive Council and that the Executive Council also considered such factors as the relevant representations and the latest market development before making the decision. May I ask where the latest market development came from? How did he keep tabs on the pulse of the market? It turns out that he did not rely on the consultant's reports but the press reports, and he analysed the latest market development by summing up all the relevant views. Is that the case? The decision to cherry-pick two out of three was, therefore, made ultimately.

In fact, we all know that this host of factors for consideration are opposite to the result of the licensing exercise, and we are all pointing an accusing finger at "one single man" called LEUNG Chun-ying who was hell-bent on his own way in making the decision. I think if the Government wishes to argue against these allegations to explain itself out, all it needs to do is to show to the public the relevant licensing documents in one go, unless the truth is that most of the 11 factors suggested for reference by the Executive Council are contrary to the result of the licensing exercise because only the view of the Chief Executive prevails in making the decision. If that is the case, the Government would not allow the release of the documents, in order to prevent the public from finding out that these documents are just reference that did not have a part to play in the making of the decision.

President, I support the motion moved by Ms Claudia MO because it is only when more papers are made public that we can find out who is right and who is wrong. Certainly, this motion is milder than the one moved by Mr Charles Peter MOK and Mr Dennis KWOK some time ago. But still, I maintain that if we can explore all possible ways to obtain one more document and explore all possible ways to have one more witness to give evidence, we may perhaps find in the process some evidence which is even darker, even more outrageous and even more enraging to the public. If we are lucky enough to find such evidence, I think even the pro-establishment Members opposing the motion on the P&P Ordinance will change their mind or be forced to vote for it albeit reluctantly. I, therefore, support the motion proposed by Ms Claudia MO today. I so submit.

**MR WONG YUK-MAN** (in Cantonese): President, the Legislative Council negated on 6 November the invocation of the Legislative Council (Powers and Privileges) Ordinance ...

(Miss Alice MAK stood up)

**PRESIDENT** (in Cantonese): Miss Alice MAK, what is your point?

**MISS ALICE MAK** (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 WONG Yuk-man, please continue.

**MR WONG YUK-MAN** (in Cantonese): President, after the Legislative Council negated on 6 November the invocation of the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to demand the Government to provide all the documents relating to the vetting and approval of applications for domestic free television programme service licences, the incident has continued to ferment. The Chairman of the Hong Kong Television Network Limited (HKTVN), Ricky WONG, said that he would consider seeking judicial review; the paper provided by the Communications Authority (CA) on 8 November stated that the CA had recommended to the Government of the Hong Kong Special Administrative Region (SAR) the granting of three licences; the consultant responsible for compiling the four consultant's reports on free television services criticized the Government in high profile for citing the reports out of context; Next Media has been "strangled" by the Television Broadcasts Limited (TVB) for continuously covering the campaign initiated by the netizens of "switching off the television to celebrate TVB's anniversary". Ricky WONG whom Ms MO requested to summon to this Council was revealed by a weekly magazine to have been involved in a sex scandal, and no sooner had he responded that he was the victim of political smearing than he started to remain silent. I think the focus has gradually been blurred as public attention has started to be diverted from the SAR Government to TVB, to Ricky WONG, and to the consultant. I am afraid the incident would eventually die off.

Ms Claudia MO's motion requests the setting up of a select committee under the P&P Ordinance to order Ricky WONG and Mr Ambrose HO, Chairman of the CA, or their authorized representatives to come to the Legislative Council to give evidence and produce the relevant documents. But it is actually impossible for them to tell what LEUNG Chun-ying and other Members of the Executive Council had said at the meetings and their true

position. Therefore, it is impossible for the select committee to prove that LEUNG Chun-ying had changed the licensing requirements all by himself; nor is it possible for the select committee to find out the reason why he did not follow the CA's recommendation on the granting of licences, and it is also impossible for the select committee to tell the public the reason why the Chief Executive in Council rejected the granting of three licences. Even if this motion on invoking the P&P Ordinance is passed today, I am afraid we could only meet twists and turns in seeking the truth. Certainly, I will still vote in support of the motion based on the position of defending the public's right to know.

Motions revolving around the free television licensing saga have been repeatedly discussed at meetings of the Legislative Council and as Members have kept repeating the same arguments, I can only bring to this Chamber the old saw that I used to teach in the journalism classroom back in those years and share with Members some journalism and communication theories.

When I spoke on the motion proposed by Mr James TO at the meeting of the Legislative Council on 6 November, I already pointed out that the general public have the right of using the media. It means that the general public can request the media to provide page space or time slot for them to express their opinions with or without payment under specific conditions. The authoritative Government of the SAR has restricted Hong Kong people's choice of television programmes and even their right of using the media. This has resulted in the television market of Hong Kong becoming far more closed than those in other places and this has undermined the interests of the audience and the public. This is closely related to the decline of the pop culture and creative industries and the fact that media programmes are becoming increasingly monotonous.

After the closing down of the Commercial Television in 1978, there have been only two major visual media operators providing free television service in Hong Kong over the past two decades or so. Given technological and financial constraints, it is inherently difficult for content providers other than these two television operators to get in touch with media consumers, and it is also impossible for media consumers to find out about programmes other than those of the two television operators. The information to which consumers can have access is, therefore, grossly lopsided and they are unable to exercise the right to monitor the media, meaning that they are in a fairly passive position without any interest to speak of.

Apart from undermining the interest of media consumers, other content providers will suffer losses too. The CA made a decision in September on TVB's alleged violations of the competition provisions of the Broadcasting Ordinance (BO). The CA found that TVB had committed an infringement of sections 13 and 14 of the BO and a financial penalty of \$900,000 was imposed on TVB. Meanwhile, the CA also directed TVB to immediately abandon the infringing contractual clauses for artistes or singers and required TVB to provide a written report within four months, making it clear that TVB's practices are against fair competition. TVB has, over the years, restricted artistes on serial-based contracts from showing up in other media. This has directly suppressed the development of other media and indirectly harmed consumers of other media. This phenomenon of minority interests overriding majority rights and interests is rare in the media market in other advanced places, but we can see it in this city of Hong Kong where strong emphasis is put on free market. This is so ironic.

After the SAR Government announced the decision on the grant of domestic free television programme service licences, it claimed that a gradual and orderly approach was adopted to avoid over competition which would otherwise render the progress brought about by competition a flash in the pan. Subsequently, the Government added that "a gradual and orderly approach should be adopted in introducing competition, lest an adverse impact be brought about by a sharp increase in the number of free TV operators, for example a decline in programme quality as a result of the cut-throat competition. This would eventually make the public suffer more than they gain". It is particularly laughable to hear such an argument questioning competition from a SAR Government which will continue to uphold a capitalist system unchanged for 50 years.

Has the SAR Government not boasted of Hong Kong being the freest economy for more than a decade in a row? Judging from the SAR Government's black-box operation in granting free TV licences, can Hong Kong still wear the laurel wreath of the freest economy?

Some time ago the SAR Government flew the balloon through a number of pro-establishment media which reported the "cause of the death" of the HKTVN in a bid to shape public opinions. For example, it was reported that the HKTVN planned to operate a number of channels initially at the launch of its service, but the income from advertisements could hardly support their operation, which

would, in turn, lead to unhealthy competition; it was reported that it should take at least 12 years to operate free television service and that it is unfavourable to the market for the less financially capable operators to prematurely make investment in a manner like "burning firecrackers" or "displaying fireworks". Some members of the industry came forth in a high profile to say that the local free television advertisement market cannot possibly accommodate five television operators; TVB even broadcast an information programme during its prime time slot, using biased information and even information which had been denied and clarified by Ricky WONG to allege that HKTVN compares unfavourably with Fantastic Television Limited and HK Television Entertainment Company Limited.

"Unhealthy competition" has become a platitude that the SAR Government and the pro-establishment camp have kept on muttering from morning till night. I must ask: What does "unhealthy competition" mean? Is "unhealthy competition" equivalent to a decline in programme quality and making investment like "burning firecrackers" or "displaying fireworks"?

I have read the decision made by the CA in September on the anti-competitive practices of TVB with respect to its contracts with artistes. It is mentioned that TVB has argued against allegations relating to its contracts with artistes on the ground of prevention of "unhealthy competition", which is exactly an aspiration shared by the SAR Government. In its response the CA said that "it is not TVB's role to decide whether competition is unhealthy. There is a presumed preference for competition in competition law. Parties are expected to compete rigorously and are not allowed to use private means to stifle competition. If there is unhealthy competition, it is the responsibility of the Government, and not private parties, to decide on remedy by legislation or other administrative means.". This view has not provided a definition for "unhealthy" competition and in the meantime, it seems to be suggesting that the Government should be given the right to interpret or is given a say on "unhealthy" competition. I do take exception to this view.

Concerning competition in the media market, I have read a number of books on it. They are economists' views on mainstream media in European and American countries. They hold that when the market is monopolized by a small number of media, the media corporations will not be enthusiastic about reforming their products or programmes and injecting creativity into their productions. It is because when the market is concentrated, media corporations will definitely

make the utmost effort to fight for the largest share or segment in the market. In order to seize their market shares, each and every media corporation in the market will produce products and programmes that appeal to the majority of the audience and viewers without offending the minority groups though. As time goes by, the media products in the market will become homogeneous. This is why the drama series that we are watching nowadays are deceiving the audience as they keep on broadcasting drama series of the same nature, which means that the audience has no choice at all. There was even a time when three drama series are of the same type. Some were produced ages ago, and even the same scene settings and the same costumes were used.

When the viewers have no choice, they would be forced to accept just anything. This is the situation that we can see very clearly in the local television market, right? As the media corporations no longer endeavour to inject creativity into their products, it would be difficult to upgrade the quality of products and the performance of the media would naturally be going downhill. On the contrary, when the market is less concentrated and competition is keen, the market would be shared out by many media, and it would be difficult for a single media operator to achieve predominance in the market and monopolization of the market would be an unreachable, uneconomical objective. Under a fully competitive market structure, the best strategy would be to identify specific markets and further put in efforts to develop them, in order to establish a firm foothold in the market. When each media in the market focuses on a specific market niche, naturally there will be a wide variety of programmes and choices will be multifarious.

From the angle of the interests of the audience or media consumers, I am concerned about the programme content and quality, whether the taste of different members of the audience can be taken care of, and whether the information is comprehensive. But according to the SAR Government, the Government's concern is whether the TV stations can make sufficient profit from their investment, whether too many operators in the market will lead to the closing down of any TV station, and so on. In other words, the Government is looking at it from the angle of media operators. Why does the SAR Government put the interest of media operators above those of other operators and media consumers at large?

The SAR Government embraces free market, the theme of which is primarily fair competition. Both the market players and consumers make

improvements or gain benefits from competition and so long as these requirements are met, there is no question of "unhealthy competition", so to speak. When we talk about fairness, it means that all the people can enjoy equal opportunities and have access to broadly the same market information and a system that accords equal treatment to all. The Government can only ensure that the market operates in line with these requirements, and the decision on which media can enter or leave the market does not rest with the Government, for this very power rests with the consumers. The SAR Government's control on market participation has ultimately restricted consumers' choices, disrupted the order of the media market and damaged the rights and interest of consumers as well as those of the public. This licensing incident has provoked public indignation and the Government really has itself to blame.

The construction of the new Broadcasting House of Radio Television Hong Kong (RTHK) at Tseung Kwan O was discussed at a meeting of the Panel on Information Technology and Broadcasting of the Legislative Council last month. The project, which costs \$6 billion, will update the facilities and provide three digital terrestrial television (DTT) channels. Some pro-establishment Members were dissatisfied with the publicly-funded RTHK for always criticizing the Government and they accused RTHK of opposing China and stirring up troubles in Hong Kong. Some people even said at the meeting that the investment made by HKTVN is far less than that of RTHK and therefore ordered Ricky WONG to back off. On the other hand, the pan-democratic Members considered that RTHK had exercised self-censorship, suppressed the freedom of speech and degenerated into the mouthpiece of the Government when the office of the Director of Broadcasting is taken up by an Administrative Officer. RTHK is really caught in the middle, is it not? When it submitted the \$6 billion-worth construction of the new Broadcasting House, it was accused by the pro-establishment camp of opposing China and stirring up troubles in Hong Kong and yet, it was also accused by the democratic camp of castrating its functions and exercising self-censorship. What should it do then? With regard to the construction of this Broadcasting House at Tseung Kwan O at a cost of \$6 billion, the Government must explain the reasons why the construction cost has increased from \$1.6 billion to \$6 billion. Their explanation is that the Broadcasting House will provide three DTT channels. Is this not tantamount to a TV station? Bubby, this is downright a new TV station.



So, I think the licensing of free television services will not be the only problem faced by the Secretary in the future. In this connection, we are all too familiar with what the Secretary has kept on muttering as if he is playing the role of a tape recorder, and certainly there will be nothing new about what he is going to say. To put it bluntly, this is all brought to him thanks to LEUNG Chun-ying. The Secretary will have to handle the licence renewal of the two free television operators, namely, ATV and TVB. We Members are greatly dissatisfied with TVB's domination of the market and we are extremely furious about the sagging ATV. Should both their renewal applications be rejected? This is a problem to be faced by the Secretary. There is also the question of whether or not RTHK's Broadcasting House at Tseung Kwan O should be constructed, and this is also a problem that need to be handled by the Secretary. I feel sad for the Secretary as I look at him now. How is he going to tackle these problems? This incident today is easy to handle, but with regard to the future development of the entire broadcasting industry, actually a lot of difficulties will be involved. Then there are also people pointing out that there may be problems with the licence renewal of Commercial Radio in 2016 as the host of a programme was transferred to other duties. Do we not see how tense the situation is in the broadcasting industry? Certainly, the impending consultation on constitutional reform has already shifted our attention.

President, my concern is whether RTHK can provide diversified and true information for the public, in order to make up for the inadequacy of commercial television operators. As regards the propriety of the direction, format and position of other television programmes, these will be governed by the BO and judged by the public. The master of the media market is not the Government or any media operator, but the many media consumers, namely, Hong Kong people.

President, I so submit.

**MR TAM YIU-CHUNG** (in Cantonese): President, it is now very late at night and so, I will not use up all my 15-minute speaking time. I hope that I can finish my speech at midnight. I do not wish to repeat what I said on the same issue on the last occasion. I only wish to respond to the remarks made by Ms Claudia MO in the beginning of this debate. She said at the outset that this debate today seems to be affected by the consultation on constitutional reform and the debate on Country Parks (Designation) (Consolidation) (Amendment) Order 2013, but

she only has herself to blame because the date was decided by her. In fact, this issue of free television services licensing has been debated for a total of more than 10 times at various meetings of the Legislative Council over the past month or so. Added to this is a relevant question asked in this Council today. Therefore, this issue has actually been fully discussed, whereas the media and the public have gradually become less concerned about it. Therefore, it is only a waste of the valuable time of this Council to repeatedly discuss this issue.

I listened very attentively to the 15-minute speech of Ms Claudia MO earlier on, and I found that she was already beating around the bush a bit. For example, she criticized ATV for not providing an auditor's report and she criticized TVB's domination of the market. Besides, she said that she was fortunately protected by the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) when she speaks in this Legislative Council which enables her to speak freely. But I think that even if she wants to speak freely, she cannot speak irresponsibly. Ms Claudia MO said that the Chairman of the former Broadcasting Authority, Ambrose HO, dared not speak in the Legislative Council because he does not have the protection of the P&P Ordinance. But I have not heard Mr HO ever mention this reason. I have only seen a statement issued by him saying that he has already given a detailed account of this incident and has no further views to add.

I also heard Ms Claudia MO emphasize twice in her speech that there are problems with procedural fairness in this licensing exercise, but Secretary Gregory SO said in his response earlier that there is absolutely no problem with procedural fairness. When one person said that there is a problem but the other said that there is none, how should this be handled? I understand that a number of people, including Mr MA Fung-kwok of this Council, are going to seek judicial review, while some people have already applied for judicial review. We should leave it to the Court to handle the issue of procedural fairness. In fact, this is also an approach often advocated and used by the Civic Party. But Ms Claudia MO seems to have departed from this position long held by the Civic Party. I, therefore, find this a bit strange.

I heard that some time ago some pan-democratic Members honestly admitted that the pan-democratic camp had kept on proposing to invoke the P&P Ordinance to follow up this incident with the purpose of continuously hyping the controversies, and they declared that even if this motion on the P&P Ordinance is

negatived today — we may not have the time to put it to the vote today — they will continue to propose the invocation of the P&P Ordinance to hype up the incident, in order that this incident will never cease to be overblown. If such being the case, the DAB will not support such an act which actually seeks to continuously hype up the incident and to continuously take political advantage under various pretexts such as finding out the truth. The DAB, therefore, opposes this motion.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 2.30 pm tomorrow.

*Suspended accordingly at four minutes to Midnight.*



## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for Food and Health to Dr Elizabeth QUAT's supplementary question to Question 3**

As regards elderly persons calling for ambulance at boundary point for attendance of medical services in Hong Kong, the relevant information is set out below for Members' reference.

*Statistics on ambulances services by the Fire Services Department*

According to the Fire Services Department (FSD), the annual average number of transfer of patients by ambulances from boundary control points to hospitals under the Hospital Authority in both 2011 and 2012 was about 6 200. The FSD has not specifically maintained the statistics on calls from the elderly persons.

The performance in responding to emergency ambulance calls were 93.5% and 93.2% in 2011 and 2012 respectively, fulfilling the department's target of 92.5%<sup>1</sup>. The FSD will flexibly deploy its ambulances in light of the demand of various districts in Hong Kong. The department will also continue to monitor the changing service demand and where necessary apply for additional resources according to the established procedures.

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<sup>1</sup> The FSD's target is that for 92.5% of emergency ambulance calls, ambulances should be able to arrive at the scene within a response time of 12 minutes.

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Labour and Welfare to Dr Fernando CHEUNG's supplementary question to Question 4**

As regards the number of private residential care home for the elderly (RCHE) licences that have been cancelled owing to elderly abuse incidents or non-compliance with the Residential Care Homes (Elderly Persons) Ordinance in the past five years, according to information provided by the Social Welfare Department, no licence was cancelled owing to the above reasons.