

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 28 October 2015

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.M., 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

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, G.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 CYD HO SAU-LAN, J.P.

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, S.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, B.B.S.

THE HONOURABLE FRANKIE YICK CHI-MING, J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING, B.B.S.

THE HONOURABLE GARY FAN KWOK-WAI

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

DR THE HONOURABLE KENNETH CHAN KA-LOK

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

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

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

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

THE HONOURABLE TANG KA-PIU, J.P.

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

IR DR THE HONOURABLE LO WAI-KWOK, S.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, B.B.S.

MEMBER ABSENT:

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

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,
J.P.
SECRETARY FOR TRANSPORT AND HOUSING

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

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

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

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

MR GODFREY LEUNG KING-KWOK, J.P.
UNDER SECRETARY FOR COMMERCE AND ECONOMIC
DEVELOPMENT

CLERKS IN ATTENDANCE:

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

MISS ODELIA LEUNG HING-YEE, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, 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 but some Members did not return to their seats)

PRESIDENT (in Cantonese): Will Members please return to their seats.

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>No.</i>	
Declaration of Geographical Constituencies (Legislative Council) Order 2015	L.N.	200/2015
Pesticides Ordinance (Amendment of Schedule 2) Notice 2015	L.N.	201/2015
Schedule of Routes (Citybus Limited) Order 2015 ...	L.N.	202/2015
Schedule of Routes (Citybus Limited) (North Lantau and Chek Lap Kok Airport) Order 2015	L.N.	203/2015
Schedule of Routes (Kowloon Motor Bus Company (1933) Limited) Order 2015	L.N.	204/2015
Schedule of Routes (Long Win Bus Company Limited) Order 2015	L.N.	205/2015
Schedule of Routes (New Lantao Bus Company (1973) Limited) Order 2015	L.N.	206/2015
Schedule of Routes (New World First Bus Services Limited) Order 2015	L.N.	207/2015

Census and Statistics (2016 Population Census) Order	L.N.	208/2015
Mines (Safety) (Amendment) Regulation 2015	L.N.	209/2015
Dangerous Goods (General) (Amendment) Regulation 2015.....	L.N.	210/2015
Dangerous Goods (Government Explosives Depots) (Amendment) Regulation 2015	L.N.	211/2015
Banking (Capital) (Amendment) Rules 2015.....	L.N.	212/2015
Antiquities and Monuments (Declaration of Monuments and Historical Buildings) (Consolidation) (Amendment) Notice 2015	L.N.	213/2015
Fifth Technical Memorandum for Allocation of Emission Allowances in Respect of Specified Licences	S.S. No. 5 to Gazette No. 43/2015	

Other Papers

- No. 12 — Electrical and Mechanical Services Trading Fund
Report 2014/15
- No. 13 — Hong Kong Council on Smoking and Health
Annual Report 2014-2015
- No. 14 — Office of the Communications Authority
Trading Fund Report 2014/15
- No. 15 — The Government Minute in response to the Report of the
Public Accounts Committee No. 63A and No. 64 of June and
July 2015

No. 16 — West Kowloon Cultural District Authority
Annual Report 2014/15

No. 17 — Hongkong Post
Annual Report 2014/15

Report No. 2/15-16 of the House Committee on Consideration of Subsidiary
Legislation and Other Instruments

Report of the Bills Committee on Peak Tramway (Amendment) Bill 2015

ADDRESS

PRESIDENT (in Cantonese): Address. The Chief Secretary for Administration will address the Council on "The Government Minute in response to the Report of the Public Accounts Committee No. 63A and No. 64".

The Government Minute in response to the Report of the Public Accounts Committee No. 63A and No. 64 of June and July 2015

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, laid on the table today is the Government Minute (GM) responding to Reports No. 63A and 64 of the Public Accounts Committee (PAC).

When presenting Reports No. 63A and 64 on 3 June and 8 July to the Legislative Council, the Chairman of the PAC gave comments on four chapters in the Director of Audit's Reports, namely "Administration of the air traffic control and related services"; "Buildings Department's actions on unauthorized building works"; "Operation of the Government Flying Service"; and "Public cooked food markets managed by the Food and Environmental Hygiene Department".

I am grateful for the time and efforts that the PAC has devoted to investigating these subjects. The Government basically accepts the PAC's various recommendations and has set out in detail the specific responses of the relevant bureaux or departments in the GM. Now, I would like to highlight the key measures that the Government has taken in these important policy areas and the progress.

The first area is the "Administration of the air traffic control and related services".

When presenting Report No. 63A to the Legislative Council on 3 June, the Chairman of the PAC gave comments on Chapter 4 of the Director of Audit's Report concerning the "Administration of the air traffic control and related services". First of all, I agree fully with the PAC that, for the purpose of protecting life and property, air safety must not be compromised under any circumstances. As a professional department in charge of air traffic management, the Civil Aviation Department (CAD) has the responsibility to ensure air safety. As regards the PAC's very severe criticisms against the CAD and the Director-General of Civil Aviation, the senior management of the Government will certainly give them very serious attention and deal with them properly.

The Government accepts the PAC's various recommendations and has set out in detail the specific responses of the Transport and Housing Bureau and the CAD in the GM. Regarding the administration of the air traffic control and related services, the Government attaches great importance to the observations and recommendations of the PAC and the Audit Commission. Maintaining the safety of air traffic is our topmost priority as far as the planning and operation of air traffic control is concerned. Therefore, the safety and efficacy of the new Air Traffic Control (ATC) system must fulfil the highest standards and must not be compromised in any case. The CAD will ensure the safe, reliable and stable operation of the new ATC system before its commissioning.

All the acceptance test events of the new Air Traffic Management System have been conducted in accordance with the requirements specified in the contract in order to ensure that the system operation complies with the contract conditions and the CAD's safety requirements. The CAD was generally satisfied with the test results. Since 2012, the CAD has engaged an independent consultant from overseas for providing safety assessment for the new ATC system to ensure that the contractor keeps up with the international quality standards and the International Civil Aviation Organization's safety requirements in the process of system development. Furthermore, the Secretary for Transport and Housing has decided to have another overseas consultant appointed by the Bureau to advise the Secretary directly and independently. The consultant will assess whether the operation of the new ATC system and the operational staff are

both prepared, so as to ensure that both the system and the operational staff are completely ready before the new system could be commissioned. The recruitment procedure has commenced.

In view of the current progress, the new ATC system will be ready for operation in the first half of 2016. In parallel, the CAD has stepped up the maintenance measures for the existing ATC system to keep it in smooth and reliable operation and at the best international standard until the new ATC system is in service.

Separately, government departments have strictly followed the rules and procedures as stipulated in the Government Stores and Procurement Regulations and the Agreement on Government Procurement of the World Trade Organization during major procurement projects, and timely consulted the Department of Justice and the Government Logistics Department to ensure impartiality and fairness throughout the procurement process. In response to the comments made by the PAC and the Audit Commission, the CAD has implemented various measures to enhance internal control and alerted its staff the lessons learnt from the audit findings.

Regarding the management of the precision runway monitor project, the CAD has devised mechanisms and updated the Departmental Project Procedures Handbook to incorporate the Audit Commission's recommendations to ensure the prudent use of public funds and the cost-effectiveness of the equipment procured in the future. In addition, the CAD will provide the Legislative Council with sufficient information regarding the pros and cons, as well as the potential risks, of the proposed project in future funding applications, so that Members could make informed decisions. As a matter of fact, we stress the same importance of transparency and timely reporting for all the funding applications made by other government departments to the Legislative Council.

As the Hong Kong International Airport is expanding and air traffic keeps growing rapidly, the demand for the CAD's regulatory work and services will increase sharply. To ensure that the administrative management, resource planning, liaison and co-ordination work involved can be conducted effectively, the Government will consider allocating additional resources to strengthen the senior management of the CAD. We expect that the commissioning of the new

ATC system will further strengthen Hong Kong's status as an international and regional aviation hub, and meet the robust growth in air traffic and also the rapid development of the local and the regional aviation industry.

On "Buildings Department's actions on unauthorized building works", the Government welcomes the comments made by the PAC and the Audit Commission and generally agrees with their recommendations. The Government has taken proactive follow-up actions to implement the recommendations as far as practicable.

The problem of unauthorized building works (UBWs) in Hong Kong is prevalent and complex. Despite our past efforts in tackling UBWs, including the removal of over 400 000 UBWs between 2001 and 2010 through various enforcement programmes, there are still UBWs in the order of tens of thousands pending clearance. Tackling UBWs in accordance with the law is meant to ensure building safety and also to uphold the rule of law. Formulation of enforcement policies based on prioritization is also required to ensure building safety on the one hand, and deter further UBWs on the other hand. If some owners are allowed to carry out UBWs to increase their usable floor areas and are left unpunished with the excuse of not imposing any risk to building safety, would it be fair to other law-abiding owners?

To this end, the Government has been taking a multi-pronged approach over the years to tackle UBWs comprising legislation, enforcement, assistance to building owners, and publicity and public education. It is our goal to develop a culture in the community that puts emphasis on building safety, through measures such as raising public awareness of the potential severe consequences caused by UBWs and deepening public understanding of the statutory provisions related to the building plan approval process and the simplified procedures for minor works control, such that the public will, on their own volition, remove their UBWs and comply with the Buildings Ordinance when carrying out any building works. We believe this is the best solution to the problem in the long run.

But certainly, before such long-term goal is attained, the ongoing and effective enforcement actions of the Buildings Department (BD) against UBWs must go on. In view of the sheer quantity of existing UBWs, the BD must take a "risk-based" approach to prioritize its enforcement actions. Specifically, the BD will take priority enforcement actions against "actionable" UBWs, which

comprise UBWs constituting obvious or imminent danger to life or property and newly built UBWs. As for "non-actionable" UBWs, the BD may issue warning notices and register non-compliant notices at the Land Registry (LR); or issue advisory letters and refrain from taking enforcement actions for the time being. The UBWs in the two categories are reviewed from time to time, taking into account the changing needs and community concerns. It is the Development Bureau's policy objective to progressively tighten the control regime by expanding the category of "actionable" UBWs.

We understand the PAC's concern over whether the BD has sufficient resources to carry out the government policy against UBWs. As a matter of fact, the BD has a rather demanding workload in recent years. In particular, the multi-pronged efforts introduced since lately, together with several major building safety incidents, have deepened public understanding of UBWs. This has led to a significant surge in the number of case reports to the BD, and hence an unprecedented increase of its workload. The drop in the number of UBWs removed since 2011 is not indicative of a decline in the amount and effectiveness of the BD's work. In fact, with the completion of the aforementioned programmes between 2001 and 2010, most of the UBWs on external walls of buildings were removed. On the other hand, the UBWs being tackled by the BD at present, such as in "sub-divided units", pose greater challenges against enforcement, as more time and resources are needed for the BD personnel to gain access to the relevant premises, or arrange for the removal of occupants. The decrease in the number of UBWs removed is understandable.

The PAC has recommended that the Government provide the BD with sufficient resources or review the policy on UBWs. We also note the PAC's recommendation that the BD should consider exploring other effective means to clear the large number of long-outstanding removal orders, such as granting amnesty to UBWs constituting no obvious or imminent danger to life or property. We are of the view that we must be cautious in making any major change to the existing the UBW policy, lest causing confusion to the public or even conveying a wrong message to the community that the Government has no determination to combat UBWs. The Government has no plan at this stage to introduce any major change to the existing UBWs policy. The BD will continue to take a multi-pronged approach to tackle the problem of UBWs. Apart from existing measures including instituting prosecution, imposing surcharge on default works, operating validation schemes and financial assistance schemes, and providing

support through social service teams, the BD will explore other effective means to encourage owners to remove their UBWs. The BD will also endeavour to raise its efficiency and reprioritize its work as necessary, such as by adjusting the number of target buildings under large-scale operations or focusing its resources on conducting large-scale operations against buildings with higher risk owing to the existence of UBWs. The Development Bureau will monitor the BD's work progress and continue to reserve the needed resources for the BD.

We are grateful to the PAC and the Audit Commission for their various recommendations to enhance the BD's work against UBWs. The BD has established a Task Force to consider the recommendations of the PAC and the Audit Commission, the BD's manpower situation and workload, and so on, and propose specific enhancement measures in respect of each stage of actions such as dealing with non-compliant removal orders, devising strategies and targets for combating "actionable" UBWs, registering removal orders at the LR, instigating prosecution against and carrying out default works for those in breach of orders, encouraging owners to remove UBWs, and so on, with a view to enhancing the effectiveness of the BD's efforts in combating UBWs.

The progress made by the Development Bureau and the BD in implementing the recommendations of the PAC and the Audit Commission has been set out in the GM. The Government will continue to monitor closely the effectiveness of the work against UBWs, and report to the PAC further progress of implementing the recommendations.

Regarding the "Operation of the Government Flying Service", I agree with the observation of the PAC that the Government Flying Service (GFS) performs a number of roles including the provision of round-the-clock air rescue and search, fire fighting, supporting law-enforcement agencies, aerial surveys and passenger-carrying service. This makes the GFS unique among its international counterparts. In recent years, there has been a significant increase in service demand. In the past five years, the flying hours of emergency call-outs have increased by 25%. At the same time, the wastage of some experienced pilots has also considerably constrained the department's operation and training capacity.

The Security Bureau and the GFS both welcome and attach importance to the various recommendations made by the PAC and the Audit Commission. In view of the ever increasing demand for services and to address shortage of

manpower, the GFS has implemented a number of measures, including expediting the recruitment of civil servants and engaging more contract staff as a stop-gap measure.

Also, the Security Bureau has commissioned the Efficiency Unit to conduct a management study on the GFS for exploring room for improvement in the areas of manpower deployment, workflow, automation, administrative support, service scope and so forth. The study is expected to be completed in the first half of 2016.

Other recommendations made by the PAC and the Audit Commission have been implemented or are being actively followed up by the GFS.

President, I have visited the GFS to learn about the department's work and talk with the staff. On 23 September, I met Mr LIU Zhigeng, the Vice-Governor of the People's Government of Guangdong Province and Director of the Guangdong Provincial Maritime Search and Rescue Centre, who visited Hong Kong to thank the GFS for its assistance. Mr LIU highly commended the GFS for saving all 20 Chinese crew members from the two vessels in distress in two maritime rescue operations on 21 July this year. The Government fully understands that adequate manpower resources are the key to maintaining the highly efficient services of this excellent team. The Secretary for Security and I are personally handling the problems faced by the department.

The last area is "Public cooked food markets managed by the Food and Environmental Hygiene Department". The Food and Environmental Hygiene Department (FEHD) generally accepts the comments and recommendations made by the PAC and the Audit Commission regarding the management of the FEHD's public cooked food markets including Cooked Food Hawker Bazaars (CFHBs), Cooked Food Markets and Cooked Food Centres.

We recognize the need to formulate exit plans for CFHBs with high vacancy rates to ensure that scarce land resources are released for redevelopment. CFHBs were meant to serve as a transitional arrangement and hence were not built in the first place with an intent for long-term use. We have since 1972 stopped issuing new hawker licences under normal circumstances. Barring exceptional circumstances, we would not issue licences to newcomers to fill the stalls left vacant by hawker licensees who have passed away or surrendered their licences. As such, a progressive increase in the vacancy rate is inevitable over time. Taking into account the fact that most of the hawker licensees operating in

CFHBs are coming from the grassroots, the Government has been adopting a relatively accommodating approach and consciously refrained from forced eviction to avoid causing significant social acrimony. This gives rise to the present state of high vacancy rate.

Having said that, the FEHD has stepped up its efforts to actively formulate improvement or exit plans for individual CFHBs, having regard to their business viability, community needs, resource availability and competing priorities, with a view to ensuring better utilization of scarce land resources. The FEHD will also fully take into account the implications for stakeholders when pursuing closure of CFHBs. The FEHD has started to discuss the exit plans with the affected cooked food hawkers of two CFHBs, and will also discuss the exit arrangements with the affected hawkers of another CFHB within 2015.

The FEHD is also following up with relevant departments in a proactive manner on the recommendations in relation to fire safety measures and the study on upgrading electricity supply. The FEHD will continue to step up its efforts in enhancing the overall management of public cooked food markets, with due regard to the historical background of public cooked food markets and the concern of stakeholders.

The Government generally accepts the recommendations of the PAC and the Audit Commission on market rental, rates and air-conditioning charges. Although our proposals put up in the last couple of years on the market rental adjustment mechanism and the recovery of air-conditioning charges did not have the support of the Legislative Council, we will continue with our effort in identifying a suitable rental adjustment mechanism and setting up arrangements to recover the rates and air-conditioning charges. We aim to revert to the Legislative Council Panel on Food Safety and Environmental Hygiene with a proposal in 2016.

Thank you, President.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Preventing Abuse of Mechanism for Making Non-refoulement Claims

1. **MR PAUL TSE** (in Cantonese): *President, it has been reported that the number of claims received by the Immigration Department (ImmD) in recent months from persons of Indian nationality for non-refoulement in order to resist removal to another country (non-refoulement claims) has risen substantially. It is suspected that some employment agencies in India have conspired with Hong Kong law firms to solicit persons of Indian nationality to come to Hong Kong to make such claims in order to stay in Hong Kong for unlawful employment. In addition, officials of ImmD recently said that they believed that some people were abetting the claimants to abuse the screening mechanism for non-refoulement claims, for example, by adopting an uncooperative attitude in the course of the processing of their claims by the authorities in order to extend their stay in Hong Kong. In this connection, will the Government inform this Council:*

- (1) *of the nationalities of the people, apart from those of Indian nationality, by whom a relatively large number of claims were lodged since the implementation of the unified screening mechanism for non-refoulement claims (unified mechanism) in March 2014; given that a law firm has concurrently represented several persons of Indian nationality to make non-refoulement claims, whether the authorities have investigated if the law firm participated in soliciting persons of Indian nationality to come to Hong Kong to make such claims; if they have investigated, of the outcome; if not, the reasons for that;*
- (2) *of the total amount of public expenditure incurred by the Government on processing non-refoulement claims since the implementation of the unified mechanism; given that there are already 10 200 cases received in the first eight months of this year pending determination, whether the Government has assessed if the \$640 million-odd funding provision for this financial year is sufficient; if it is not sufficient, of the amount of shortfall; and*
- (3) *whether it will publicize to foreign countries through the Internet and other channels the message that persons making non-refoulement claims in Hong Kong will not be issued employment visas, and that the Government will stringently combat unlawful employment and the acts of abetting others to work unlawfully in*

Hong Kong; whether it will consider urging, through the Ministry of Foreign Affairs of China, the Indian Government to assist in curbing¹ intermediaries abetting its nationals to make such claims; whether it will enact legislation to provide for a time limit for lodging claims and the procedures for screening claims?

PRESIDENT (in Cantonese): Mr TSE, "邊止" should be pronounced as "ngaat3 zi2". Secretary, please give your main reply.

SECRETARY FOR SECURITY (in Cantonese): President, foreigners (Indians included) who smuggled themselves into Hong Kong, who overstayed their limit of stay allowed at entry, or who were refused entry by the Immigration Department (ImmD) upon arrival in Hong Kong will be removed from Hong Kong in accordance with the Immigration Ordinance (Cap. 115). To safeguard immigration control and for public interest, they should be removed as soon as practicable.

However, pursuant to the United Nations Convention Against Torture which applies to Hong Kong since 1992, as well as multiple local court rulings since 2004, if a foreigner claims that he would face risks of torture, cruel, inhuman or degrading treatment or punishment or persecution if he is removed to his country of origin, then ImmD must determine whether his claim is substantiated following procedures that meet "high standards of fairness"; meanwhile ImmD may not remove him to his country of origin.

The Government commenced the unified screening mechanism (USM) in March 2014, with 6 699 non-refoulement claims pending screening then. By end September 2015, ImmD has determined 2 602 claims; and 1 918 claims were withdrawn. However, during the same period, ImmD received another 8 271 claims, bringing the total number of claims pending screening to 10 450.

President, it must be reiterated that the 1951 United Nations Refugee Convention has never applied to Hong Kong, and persons claiming non-refoulement here will not be treated as "refugees". They will not be

¹ In the Chinese version, the term is "邊止". Mr Paul TSE pronounced "邊止" as "kit3 zi2" instead of the correct pronunciation of "ngaat3 zi2".

allowed to settle in Hong Kong, regardless of the result of their claim. They must leave when the risk they allegedly face ceases to exist. That said, if a non-refoulement claim is substantiated on grounds of persecution, the claimant will be referred to the United Nations High Commissioner for Refugees for consideration of arrangement of resettlement in a third country.

My reply to the various parts of Mr TSE's question is as follows:

(1) and (3)

Most of the 10 450 pending claimants originate from South or Southeast Asian countries, with Indians accounting for the most (20%), followed by Vietnamese (about 20%), Pakistanis (18%), Bangladeshis (12%), and Indonesians (10%), that is, 80% of all claimants came from one of these five countries.

According to immigration records, 46% of claimants smuggled into Hong Kong, 47% entered as visitors but did not leave Hong Kong before their limit of stay expired (that is, overstaying). The remaining 7% are mostly persons who lodged a non-refoulement claim on the spot after being refused permission to land upon arrival.

Our figures indicate that 74% of claimants are male, 76% are between 18 and 40 years old, and 94% came to Hong Kong alone without their family.

Most claimants (around 70%) lodged a claim only after having been intercepted or arrested by ImmD or the Police. Claimants who overstayed have hidden in Hong Kong for an average of 19 months before lodging a claim.

The Government is very concerned with recent reports that some agencies in India are suspected to be arranging Indian nationals to come to Hong Kong under a fictitious "asylum visa", providing a range of services including transporting them from India to Hong Kong, providing legal service to ensure that they enter successfully and lodge a non-refoulement claim for them afterwards, and, while they are pending screening, arranging unlawful employment for

them. Apart from serious abuses to our non-refoulement screening mechanism, such services exposed in the reports may also involve a number of serious criminal offences amounting to human trafficking.

Our law-enforcement agencies (LEAs), including ImmD and the Police, are conducting in depth investigation through different channels. LEAs will not acquiesce to any criminal activities; stringent enforcement action will be taken against them.

In recent months, the Government has had multiple meetings with the Consul General (CG) of India in Hong Kong to express our profound concern against Indian agencies allegedly arranging Indian nationals to enter Hong Kong for unlawful employment. We pointed out to CG that such activities may involve a number of serious criminal offences and requested the Indian Government to render all possible assistance in combating such crimes. The Government also proposed visits to India by LEAs to follow up with local enforcement agencies over there. However, we may not divulge further details at this stage lest the relevant work would be undermined.

Other than India, we will soon be in contact with the local Consulates of such countries as Vietnam and Pakistan to discuss how to combat their nationals smuggling into or overstaying in Hong Kong, as well as those syndicates which arrange such smuggling activities.

At the same time, we will seek to promulgate and clarify our immigration policy through different channels to the people in relevant countries.

All of our efforts above are fully supported by the Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong.

In fact, other than investigation and publicity work, we will also conduct a holistic research on different measures to address and tackle our present problem, including intercepting illegal immigrants at the source, improving the screening procedures for non-refoulement claims, expediting the screening process to

minimize abuses, and reducing incentive for foreigners to take up unlawful employment in Hong Kong. We will also consider whether the relevant legislation needs to be amended to plug various loopholes.

- (2) As regards expenditure, in the current financial year, the estimated expenditure arising from the screening of claims amounts to \$644 million, an increase of 21% from last year. This includes \$207 million for manpower expenditure under ImmD, the Torture Claims Appeal Board, and the Department of Justice to screen non-refoulement claims, \$108 million for the provision of publicly-funded legal assistance for claimants through the Duty Lawyer Service (DLS) as required by law, and \$329 million to provide humanitarian assistance to claimants whilst they are stranded in Hong Kong to prevent them from falling destitute. As the legal cost per claim processed under the publicly-funded legal assistance scheme has continued to rise, the Government has requested DLS to strengthen its financial management to ensure the proper use of public funds.

At the same time, given the surge in the number of non-refoulement claims, I have requested the Director of Immigration to explore all possible ways within the existing legal framework to expedite the screening of claims by more efficient use of available resources. In July 2015, the Government briefed the Panel on Security of this Council on a number of administrative measures which can be promulgated without amending the present legislation, including advancing scheduling of screening interviews and providing screening bundle to claimants to save them from having to lodge a data access request. We sought an early implementation of these measures to expedite the screening of claims (it is estimated that the time required to process a claim can be reduced from 25 weeks to 15 weeks). Although some stakeholders are still maintaining a different view on these measures, we will continue to liaise with them and explain the importance of commencing these measures to expedite screening, with a view to securing the co-operation of relevant stakeholders and commencing these measures to expedite screening as soon as possible.

The above notwithstanding, we predict that the expenditure arising from the screening of claims may continue to rise. We are reviewing whether our existing resources are adequate, and will seek additional resources under the prevailing mechanism if necessary.

MR PAUL TSE (in Cantonese): *President, we have recently seen lots of displaced refugees on television — they are genuine refugees who are fleeing their hometown to avoid war. However, our figures reveal that for those who smuggled themselves into Hong Kong, those who were refused entry at the airport, or the overstayers, all of them are not refugees.*

President, Hong Kong people have to go through a lot of vetting and approval procedures if they want to apply for welfare benefits. For instance, they have to take an oath. If they make false representation, they will be sent to jail. Moreover, they also have to receive certain training. It is hoped that with all these measures in place, unnecessary expenditure involving public money can be reduced, but with regard to torture claimants, it appears that we have failed to convince the Hong Kong people that the money is well spent. In this connection, Secretary, if administrative measures cannot serve the purpose, I would like to know what legislation will have to be enacted to help reduce such abuses, so that we will not be regarded as suckers or be exploited?

SECRETARY FOR SECURITY (in Cantonese): Mr TSE, we are providing torture claimants with financial support in accordance with court rulings. At present, we are giving them on a monthly basis \$1,500 in rent allowance, \$1,200 in food coupons and \$400 for them to meet other expenses. In addition, we will also provide them with transportation allowances, depending on the location of their residence. The purpose of providing such basic financial support is to prevent them from falling destitute while pending screening in Hong Kong. Existing laws also require us to provide them with such support.

Since 2009, the Immigration Ordinance has been amended to forbid claimants to work in Hong Kong. From 2009 till now, we have prosecuted over 1 000 people, and the court has passed sentences on these cases to act as a deterrent.

On this issue, we must tackle various problems according to the law. I have mentioned in my main reply the problems we now have to face. I have also said that a holistic strategy would be adopted to review the situation. I very much hope that other stakeholders will also understand why we need to do so and work with us.

MR PAUL TSE (in Cantonese): *In what directions can we make legal amendments to help plug the loopholes?*

PRESIDENT (in Cantonese): Secretary, regarding the enactment of legislation, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): Regarding legislative amendments, let me perhaps mention a bit about the general direction. First, at the moment, since as many as close to 50% of the claimants have smuggled themselves into Hong Kong, I have said earlier that we will tackle the problem at the source and increase penalty. Second, as regards existing screening procedures, if we find it necessary to enhance the existing administrative measures through the enactment of legislation, we will have to do so accordingly. We will consider carefully. We also plan that after resolving a basket of matters, including reaching certain understanding with other stakeholders, we will explain to the Panel on Security of this Council in detail and listen to Members' views.

MR IP KWOK-HIM (in Cantonese): *I am very happy to learn from the main reply that the Government is very concerned about earlier reports that some agencies in India claim they can arrange Indian nationals to come to Hong Kong under a fictitious "asylum visa". Actually, I made enquiries on the subject with the Chief Executive last week. Yet, I am also aware that some lawyers claim that arrangement can be made to hire someone to make the claims on the claimants' behalf before they get off the plane, or even help them lodge applications. I do not think anyone will believe that there is no conspiracy involved, but I dare not say for sure if this is in breach of the law ...*

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

MR IP KWOK-HIM (in Cantonese): ... *since these lawyers are familiar with the procedures and the loopholes. I would like to ask the Secretary: Would you consider taking certain administrative measures to curb the situation, including making public a list of these solicitors' firms with the number of such cases handled by them annually in order to enhance transparency? I hope that under public and media scrutiny, such solicitors' firms can exercise restraint.*

SECRETARY FOR SECURITY (in Cantonese): We will examine Mr IP's proposal after the meeting, as well as the views which other Members may put forward later. First, we will take measures in accordance with the law. Second, apart from making public the list, we also need to take a series of measures to crack down on the syndicated act of soliciting foreign nationals to come to Hong Kong through illegal means. Thus, in my main reply delivered earlier, I particularly emphasized that the Police and the ImmD had joined hands to conduct in-depth investigation. Besides, we have also requested assistance from the Consul General of India in Hong Kong so that we may send officers to India to follow up. Such efforts are supported by the Office of the Commissioner of the Ministry of Foreign Affairs in Hong Kong. I believe it will be more efficient to take action at the source. We very much hope that the requested assistance can be provided to us as quickly as possible.

DR ELIZABETH QUAT (in Cantonese): *President, of all the non-refoulement claim cases over the years, only less than 1% can be substantiated. The bare fact is that the majority of non-refoulement claimants are actually bogus refugees who have come to Hong Kong for allowances, illegal employment and money through engagement in illegal activities. They will do all they can — abusing the mechanism and legal procedures — to prolong their stay in Hong Kong, thereby putting a heavy burden on us.*

President, right now, there is a backlog of more than 10 000 cases and the number will increase by 300 or 400 each month. The Government has to spend over \$600 million annually but the Secretary said it was expected that the expenditure required might continue to go up. How can Hong Kong take up such a heavy burden?

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

DR ELIZABETH QUAT (in Cantonese): *President, I believe many people are also very concerned about the supplementary question which I would like to raise. In the past, Hong Kong had Vietnamese refugee centres, why can we not set up reception centres for the claimants? If the incentives for them to come can be eliminated, and if we can strictly ban them from coming here to make money by working as illegal workers, can this problem be effectively addressed?*

SECRETARY FOR SECURITY (in Cantonese): I am very grateful for the concerns raised by the Member. This is actually not only the concern of the Government, the court has also made some comments on this trend. In the *HKSAR v Tarok Das* case, the Court of First Instance of the High Court pointed out that the number of claims had seen a dramatic increase, seriously impacting the operation of the court and the legal system. The unmeritorious and unworthy claims should be weeded out promptly to avoid the abuse of the system by claimants with a more sinister purpose in mind to achieve illegal purposes ...

PRESIDENT (in Cantonese): Secretary, please answer Dr QUAT's supplementary question.

SECRETARY FOR SECURITY (in Cantonese): My reply to the Member's supplementary question is that the authorities have to act in accordance with the existing laws in Hong Kong. Thus, I have mentioned a series of measures earlier. As regards the Member's proposal of setting up closed camps similar to the then Vietnamese refugee centres, we will take it into consideration.

MR JAMES TIEN (in Cantonese): *President, my supplementary question is similar to that raised by Dr Elizabeth QUAT of the DAB. The best way to greatly curtail the chance for them to come to Hong Kong to take up employment is to set up closed refugee camps as soon as possible. We learn from the main reply that claimants from five countries have accounted for 80% of the total number. Those countries include India, Bangladesh and Indonesia, with a*

population of over 1 billion, yet none of the countries suffers from unstable political situation. They come to Hong Kong simply to make money. All we have to do is to launch a publicity campaign to inform them that upon arrival, they are not allowed to work in Hong Kong while waiting for a judgment, and they will also be confined. At present, the Government allows claimants to go out ... Of course, if they get employed, their employers will also be held accountable.

The Secretary said earlier that they would examine the relevant issues. My supplementary question is: Can we set up closed refugee camps as soon as possible? This of course involves public funds, but since litigations also cost \$600 million, we might as well spend the money on setting up closed refugee camps to stamp out this problem.

PRESIDENT (in Cantonese): Mr TIEN, please let the Secretary reply.

SECRETARY FOR SECURITY (in Cantonese): Let me thank the Member for his views. Under existing laws, the ImmD can, under certain circumstances, detain illegal immigrants, overstayers or people refused entry for the purpose of proceeding with repatriation procedures. Lately, there have been several cases on habeas corpus and judicial review in relation to such circumstances. The court has delivered a very clear verdict, that is, the detention period must be reasonable, not beyond the reasonable span and unduly long.

The setting up of closed camps invariably involves the enactment of legislation, and we must consider whether the proposed legislation complies with the corresponding requirement enshrined in the Basic Law. If we are not careful, it will only trigger more lawsuits. Therefore, we have to be cautious when we study the matter.

MR JAMES TIEN (in Cantonese): *Why does the Government have to enact legislation? The legislation for the setting up of the Vietnamese refugee camps back in those years has not been amended. If we could do so back then, why can we not do it now? Why is new legislation required?*

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

SECRETARY FOR SECURITY (in Cantonese): Legislation was necessary when the Vietnamese refugee camps were set up back then. Therefore, enactment of legislation is imperative if we have to set up closed camps again now. I have explained earlier that existing laws clearly stipulate that the ImmD can only impose administrative detention on illegal immigrants for a reasonable time span.

PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. As many Members still want to raise questions, please follow up the issue on other occasions. Second question.

Handling of Complaints About Water Dripping from Air-conditioners

2. **MR MICHAEL TIEN** (in Cantonese): *President, a large number of members of the public have relayed to me that water dripping from air-conditioners has caused grave nuisance to them, including generating noise and dirtying clothes, and the problem is very common in various districts across the territory. As shown by the picture I am now holding, one third of the spaces in the bus stop is left with no waiting queue most of the time. It has been reported that in the years 2004 to 2014, the authorities received over 170 000 complaints in total but issued 5 256 warning letters and instituted 12 prosecutions only, with the prosecution rate standing at a mere 0.007%. In the first half of this year alone, the authorities received 8 900 complaints, and no prosecution has been instituted yet. In this connection, will the Government inform this Council:*

- (1) *given that while the Food and Environmental Hygiene Department (FEHD) may take law enforcement actions under the Public Health and Municipal Services Ordinance (including issuing Nuisance Notices and Nuisance Orders to the persons causing the nuisance or the occupiers or the owners of the relevant premises) to require the persons concerned to abate the nuisance within a specified period, the maximum penalties for failure to comply with such notices and orders are merely a fine of \$10,000 and \$25,000 respectively (plus a*

daily fine), whether the Government has reviewed if such penalties are effective in pressing the persons concerned to expeditiously resolve the problem of dripping air-conditioners; if it has reviewed and the outcome is in the negative, whether the Government will increase the penalties to enhance the deterrent effect; and

- (2) *given that while the authorities indicated in their reply to a question raised by a Member of this Council in 2013 that in order to raise public awareness of the problem of dripping air-conditioners, "FEHD disseminates relevant messages in the summer through releasing Announcements in the Public Interest on television and radio, and distributing posters and leaflets to owners' corporations, mutual aid committees, property management companies of buildings and members of the public", some members of the public have pointed out that such publicity efforts have little impact and FEHD frontline staff are under considerable pressure, whether the Government will set up a dedicated team to handle the problem of dripping air-conditioners and pertinent complaint cases in a more efficient manner, and provide training courses to staff members on handling more difficult cases?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, the Food and Environmental Hygiene Department (FEHD) has all along been vigilant about the nuisance caused by water dripping from air-conditioners. Apart from handling complaints, the FEHD conducts special inspections at black spots of dripping air-conditioners with heavy pedestrian flow (such as roadside bus stops, public light bus stands and pedestrian crossings) during different hours of the day including early morning and the evening.

Upon receiving a complaint on dripping air-conditioners from the public or noticing a nuisance during routine inspections, the FEHD will send a health inspector responsible for the district concerned to carry out investigation as soon as possible. In most cases, after receiving the rectification request (including verbal warning and advisory letter) issued by the FEHD's officers, the flat owners or occupants concerned will take remedial action to abate the nuisance caused by water dripping from their air-conditioners. If the verbal warning or advisory letter is unheeded, the FEHD will issue a Nuisance Notice. A Nuisance Notice requires the relevant person to abate the nuisance within the period specified in

the notice. Any person who fails to comply with the requirements stated in the Nuisance Notice will be prosecuted and is liable upon conviction to a maximum penalty of \$10,000 and a daily fine of \$200 should the offence persist. Besides, after the person has been convicted of failing to comply with the Nuisance Notice, should the nuisance which gives rise to the offence persist, the FEHD will apply to the Court for a Nuisance Order requiring the person concerned to comply with the requirement within the period specified in the Order. Failure to comply with the requirement of the Nuisance Order may lead to prosecution. Upon conviction, the offender is liable to a maximum penalty of \$25,000 and a daily fine of \$450 should the offence persist.

From 2004 to 2014, the FEHD received, on average, about 15 000 complaints every year related to water dripping from air-conditioners. During the same period, the FEHD has issued a total of 5 261 Nuisance Notices. Annex 1 gives the number of complaints received and Nuisance Notices issued in each year.

Under the current legislation and system, if the dripping water has been properly collected or drained away without causing any nuisance, the water dripping nuisance is considered to be abated. Generally speaking, water dripping from air-conditioners is usually caused by minor problems such as bad or loose connection of rubber drain hoses, blockage to drainage outlets or absence of water drip pans. The flat owners or occupants concerned are generally able to properly repair the air-conditioners with dripping problem within a short time. Therefore, in a great majority of the cases, the FEHD does not need to take further prosecution action. In the past 10 years, the FEHD instituted prosecutions in 12 cases for non-compliance with the Nuisance Notice.

Each summer, the FEHD will release announcements in the public interest on media such as television and radio, and produce posters and leaflets for distribution to owners' corporations, mutual aid committees and property management agents (PMAs), for the purpose of reminding the public to conduct regular repair and maintenance for air-conditioners in the interest of preventing water dripping nuisance. The FEHD launched in 2005 a pilot scheme entitled "Participation by Property Management Agents in Tackling Dripping Air-conditioners". It extended the scheme to the whole territory in 2009. Under the scheme, PMAs of private housing estates are invited to assist in handling complaints about dripping air-conditioners in their housing estates during the summer season. Currently, 33 PMAs covering 120 private housing

estates in the territory have participated in the scheme. In 2014, a total of some 7 400 water dripping cases were handled by participating PMAs. The FEHD will continue to promote the scheme each summer.

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

- (1) At present, the maximum penalty for failure to comply with the requirements of a Nuisance Notice or Nuisance Order is a fine of \$10,000 and \$25,000 respectively. As mentioned earlier, most of the owners or occupants will promptly rectify the problem after receiving warnings or Nuisance Notices from FEHD officers to avoid prosecution or penalty. It is therefore evident that the existing penalty level carries reasonably strong deterrence.

For the 12 prosecutions instituted in the past, the fines imposed by the Court ranged between \$300 and \$2,500. Since the penalties imposed are some distance away from the statutory maximum level, we will review the situation but have not given consideration to increasing the penalty for the time being.

- (2) I hope Honourable Members and the public will understand the difficulties inherent in handling complaints about water dripping from air-conditioners, including the following:
 - (i) cases of nuisance caused by water dripping from air-conditioners mostly occur at night or in the early morning. It is at times difficult for investigating officers to locate the source of nuisance in dim light;
 - (ii) most residential blocks are high-rise buildings with air-conditioners installed vertically at the same location on each floor. This prolongs the investigation process as there may be multiple sources of dripping;
 - (iii) in the course of conducting enquiries, we may run into cases where the occupants or owners are not at home or less than willing to co-operate. These add difficulties to the investigation work; and

- (iv) there are also cases where the water dripping problem recurs shortly after the air-conditioners have been repaired.

At present, about 290 health inspectors are deployed to 19 district environmental hygiene offices across the territory to handle environmental hygiene issues in the district, including inspecting licensed food premises and non-food premises (for example, commercial bathhouses and cinemas) and dealing with the relevant licensing matters, prosecuting unlicensed food premises, processing licence applications for operating temporary places of public entertainment, investigating food complaints and food poisoning cases, as well as complaints related to environmental hygiene nuisances. In 2014, they have to act on more than 49 000 complaints related to environmental hygiene nuisances, among which over 19 000 cases involved dripping air-conditioners.

As cases of nuisance caused by water dripping from air-conditioners tend to cluster in the summer months, the workload of the district environmental hygiene offices of the FEHD may register a substantial increase within a short period of time in summer⁽¹⁾. To reduce the work pressure of front-line officers in handling such cases in summer, the FEHD has implemented a pilot scheme in the summer of 2014 and this year. Under the pilot scheme, retired health inspectors are recruited on short-term contracts such that the district environmental hygiene offices could make good use of their experience to help handle these problems in the districts. Besides, conscious of the difficulties that its staff may face when handling environmental hygiene complaint cases, the FEHD organizes experience sharing sessions and workshops on complaint handling skills for its staff from time to time, including experience sharing sessions on cases investigated by the Office of the Ombudsman. Where necessary, the FEHD will invite officers from other departments with the relevant professional knowledge to brief its front-line staff.

(1) Annex 2 gives the number of complaints about water dripping from air-conditioners received in each month of 2014.

We will review the FEHD's current practice of recruiting extra contract staff in the summer months to support front-line staff in handling the problem of water dripping from air-conditioners. Subject to the availability of resources, we will also consider setting up a dedicated team to focus on more complicated cases in various districts.

In the final analysis, to effectively resolve this problem, enforcement action on the part of the Government alone would not suffice. Support from the community as a whole is called for. With members of the public each exercising self-discipline and playing their due role in keeping their air-conditioners in good repair, our collective efforts would help bring social harmony and a good living environment.

Annex 1

The numbers of complaints about water dripping from air-conditioners received and Nuisance Notices issued between 2004 and 2014

<i>Year</i>	<i>Number of complaints</i>	<i>Number of Nuisance Notices issued</i>
2004	10 116	304
2005	10 648	308
2006	11 736	395
2007	12 848	266
2008	13 636	299
2009	17 710	517
2010	18 508	490
2011	17 486	486
2012	20 092	631
2013	18 215	725
2014	19 722	840
Total	170 717	5 261

The number of complaints about water dripping from air-conditioners received in each month of the year from 2013 to 2015

Month	Number of complaints about water dripping from air-conditioners		
	2015	2014	2013
January	169	51	74
February	65	47	95
March	305	135	177
April	853	572	421
May	2 734	2 227	2 641
June	4 834	3 838	3 720
July	4 166	4 065	3 798
August	4 155	3 795	3 565
September	3 374	3 315	2 380
October		1 248	1 019
November		337	282
December		92	43
Total	20 655	19 722	18 215

MR MICHAEL TIEN (in Cantonese): *President, the Secretary pointed out in his reply that in most complaint cases, the flat owners concerned would take remedial action after receiving the rectification requests issued by the FEHD. He then said that the flat owners or occupants concerned were generally able to rectify the problem properly within a short time. In other words, among the 180 000 complaint cases received over the last 10 years, 165 000 cases were successfully handled after the issuance of rectification requests. However, the Secretary subsequently said that cases of nuisance caused by water dripping from air-conditioners mostly occurred at night or in the early morning and it was at times difficult for investigating officers to locate the source of nuisance, and that the owners were usually not at home or less than willing to co-operate, thus adding difficulties to the investigation work.*

President, what exactly is the Secretary trying to say? Have most of the complaint cases been successfully handled or not? Perhaps I should put my supplementary question this way: Among the 165 000 complaint cases which the FEHD received over the last 10 years and for which the issuance of warning letters was not required, how many have actually been left unsettled as it was not possible for investigating officers to locate the source of nuisance or enter the flats concerned for investigation?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, Mr TIEN has pointed out some objective facts but regarding the supplementary question he raised, a simple answer from me is that I do not have the statistics requested.

MR MICHAEL TIEN (in Cantonese): *If the Secretary does not have such statistics, how can he say that the problem has been settled? Can I assume that the 165 000 complaint cases have actually not been successfully handled, though you have said so in the main reply?*

PRESIDENT (in Cantonese): Mr TIEN, the Secretary has already answered. If you wish to raise another supplementary question, you should queue up again and wait for your turn.

MR CHRISTOPHER CHUNG (in Cantonese): *President, I think we have to gear up ourselves with an umbrella or a raincoat when we wait for buses in Wan Chai and Causeway Bay on sunny days during the summer months, or else we will be soaked to the skin. Nuisance caused by water dripping from air-conditioners is really torturing but efforts made by the FEHD to alleviate the problem produce only limited effects. Hence, I wonder if the Government could explore the possibility of invoking the Summary Offences Ordinance so that the FEHD may issue fixed penalty tickets against dripping air-conditioners identified. In this connection, reference can be made to enforcement against unauthorized parking so that deterrence against the malpractice could be beefed up and the occupants of the premises concerned would be prompted to take remedial action as soon as possible.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, frankly speaking, I have never taken the suggestion made by Mr CHUNG into consideration. We will of course adopt an open-minded attitude but it should still be pointed that it would not be easy to handle the problem with this approach. Currently, fixed penalty tickets under the Summary Offences Ordinance are normally issued against offences which can be detected at the scene in a "person-to-person" manner. Take littering as an example, law-enforcement officers are able to identify the actual offenders at the scene with irrefutable evidence. Besides, there are new arrangements under consideration recently to address such problems as obstructing the pavements by commercial tenants since the source of nuisance can be clearly identified.

However, as I have pointed out earlier, we do encounter some difficulties in handling the problem of water dripping from air-conditioners, thus making it hard for us to identify the source of nuisance in a simple, direct and efficient manner. This is particularly so when most residential blocks are high-rise buildings with a row of air-conditioners installed vertically at the same location on each floor, and there is possibly more than one dripping air-conditioner. Thus, careful consideration has to be given to the suggestion before a decision can be made on its feasibility.

MR CHRISTOPHER CHUNG (in Cantonese): *We can in fact ...*

PRESIDENT (in Cantonese): Mr CHUNG, the Secretary has already given a reply to your question. There should be no debate during Question Time.

MR STEVEN HO (in Cantonese): *President, due to the problem of water dripping from air-conditioners, the hair of pedestrians gets wet and their clothes become dirty. In addition, water droplets of dripping air-conditioners which fall on other air-conditioners in the stillness of the night will generate annoying noise, which in turn will seriously affect the quality of sleep of the affected residents and social problems will arise in a society with many sleep-deprived people.*

The Secretary has said in the main reply that upon receiving a complaint from the public and noticing a nuisance during routine inspections, the FEHD would not take further action if the nuisance could be abated after the issuance of

verbal warning. Can statistics be provided by the Government to illustrate the approximate time taken from receiving complaints, issuing verbal warnings to settling the cases? Whether it will take three, five to seven days or three, six to nine months? We consider it unacceptable for the affected members of the public to persistently put up with the nuisance. Has the Government come up with a solution to the problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, questions have been raised by different Members regarding the handling of complaint cases through simple measures, verbal advice or warning and to which timely response has been given by the occupants or flat owners concerned. They want to know if detailed statistics have been kept by the Government on the number of verbal warnings issued and the time taken to settle each complaint case. In this connection, the only answer I can give is: Such statistics are not available. I am sure Members will not find the answer satisfactory.

Hence, I have to continue with my elaboration that in order to provide the statistics as requested, our colleagues will have to keep a detailed written record of the handling of such complaint cases. I am not suggesting that it is not right to do so but we have to take the issue of manpower deployment into consideration. As I pointed out earlier, apart from the problem of water dripping from air-conditioners, the 290 health inspectors are also tasked with the handling of other environmental hygiene issues. If additional requirements are included, there may be a change in workload, followed by an increase in manpower requirement. All these are factors that I should take into consideration and meanwhile, I can only say that such statistics are not available.

MR CHAN HAN-PAN (in Cantonese): *President, there are only about five to 10 health inspectors deployed to each district by the FEHD at present. They are responsible for a number of duties, including inspecting licensed food premises, taking enforcement action against litterbug, following up on the work involved in tackling hygiene black spots as well as handling the problem of water dripping from air-conditioners. Thus, the handling of water dripping from air-conditioners is normally of a lower priority. Generally speaking, the FEHD starts receiving complaints from the public when the problem of dripping air-conditioners emerges during summer, but handling of such complaints is*

always delayed until autumn when the problem is relieved due to the cooler weather. Therefore, instead of a result of the follow-up action taken by the FEHD, the nuisance is basically abated with the change of seasons.

Secretary, members of the public have put forward a lot of views on dripping air-conditioners, cleansing services or pest control services in recent years and the workload of the Food and Health Bureau is indeed very heavy. In this connection, will the Secretary consider delegating part of the Bureau's duties (including the power concerning the provision of municipal services) to FEHD's Superintendents or the Chairmen of District Management Committees so that such services will be handled in a district-oriented manner?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we may look at this issue from two perspectives. Firstly, as far as district affairs are concerned, the Government is beginning to contemplate the delegation of some district work to District Council levels on a pilot basis. However, I think our consideration in this respect would not be confined to the problem of dripping air-conditioners or other specific issues, but would be applied to the overall management of district affairs.

Secondly, Members have expressed concern about the adequacy of manpower and the issue does warrant my concern. We are now reviewing on an ongoing basis the sufficiency of resources for FEHD and ways to improve its handling of the problems concerned. Apart from the issues involving drinking water, there are of course other issues concerning environmental hygiene for the FEHD to deal with. As a responsible Policy Bureau, we will strive for the provision of additional resources where necessary and practicable.

However, as Members have pointed out, even with relatively ample provision of resources, it is still imperative to prioritize various jobs. As mentioned by Mr HO, the problem may lead to very serious nuisances, which I fully understand. However, there are also other problems which are even more worrying to me, such as those closely related to food safety.

MR WU CHI-WAI (in Cantonese): *President, the Secretary actually knows very well the nuisance caused by and the gravity of the problem, and in part (2) of the main reply, he has also set out clearly the difficulties faced by the FEHD in*

carrying out its investigation work. However, the Secretary only stated repeatedly in his reply that the FEHD was tasked with a number of duties and it would not be feasible to rely solely on health inspectors to handle the problem. I have made reference to the practices adopted by other departments, such as the Buildings Department. As it is faced with the same problem in handling unauthorized structures, so it outsources some of its specific duties ... for example, the work of identifying the source of the water dripping problem could actually be outsourced, especially when serious complaint cases of nuisance caused by the problem tend to emerge only in the summer months.

I would like to ask the Secretary: Will he seriously handle the problem from this perspective instead of leaving it to health inspectors? Will he outsource the investigation of water dripping problems so as to enhance the efficiency of inspection and investigation work and facilitate the use of new technology?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, with regard to the questions raised by the Member, the crux of the matter actually lies in the provision of resources, be it the provision of additional manpower resources within the FEHD, or treating the problem of dripping air-conditioners as an independent item by outsourcing the relevant services.

As for public housing and private housing estates, I have mentioned earlier that the FEHD has adopted a more target-oriented approach recently to work together with the Housing Department (HD) and PMAs of private housing estates. The approach is somewhat similar to the concept put forward by Mr WU in that the problem will be directly referred to the management agents concerned. The HD is the management agent of public housing estates while PMAs are the management agents of private housing estates. As I pointed out in the main reply just now, through collaboration with PMAs of private housing estates and provision of relevant information as well as the assistance needed, an effective arrangement is in place to empower PMAs to directly deal with complaint cases in their housing estates. This may enhance the efficiency of work in this regard. Hence, conceptually speaking, there is in fact no difference between the suggestion put forward by the Member and the approach we adopt.

MR WU CHI-WAI (in Cantonese): *The Secretary has not answered my supplementary question, which seeks to understand the approach to be adopted by the Government to handle the matter. Will there be any increase in resources? Judging from the reply given by the Secretary, it seems that he would not do so and I would like to ask for a clarification of the point.*

PRESIDENT (in Cantonese): Mr WU, you have a correct understanding of the Secretary's reply. We have spent 23 minutes on this question. Third question.

Abolition of Arrangement for Offsetting Severance Payments and Long Service Payments

3. **MR TANG KA-PIU** (in Cantonese): *President, under the Mandatory Provident Fund Schemes Ordinance, an employer may use the accrued benefits derived from the contributions he made for an employee to a Mandatory Provident Fund (MPF) scheme to offset the severance payment (SP) or long service payment (LSP) payable to the employee under the Employment Ordinance (the offsetting arrangement). Although the Chief Executive indicated in his election manifesto in as early as 2012 that he would progressively reduce the proportion of the offsetting amount, the Government has not put forward any specific proposal for fulfilling that pledge, and the offsetting arrangement has been incessantly gnawing the accrued benefits payable to employees. On the other hand, a number of employer groups have reacted strongly to the reports that the Government intends to propose the abolition of the offsetting arrangement in the 2016 Policy Address. In this connection, will the Government inform this Council:*

- (1) *whether the authorities have conducted studies on the abolition of the offsetting arrangement; if they have, of the details; if not, the reasons for that; whether the authorities will consider drawing up a timetable for the abolition of the offsetting arrangement;*
- (2) *whether the authorities have approached employer groups and labour organizations to gain an understanding of their specific views on the abolition of the offsetting arrangement; if so, of the views of both sides, the efforts made by the authorities to reduce the*

differences between them, and whether they have put forward any proposal acceptable to both sides; if not, whether they will make efforts to gain an understanding of the views of both sides; and

- (3) *given that some academics have proposed that when introducing legislative amendments to abolish the offsetting arrangement, the Government should impose a five-year transitional period in which employers are allowed to claim reimbursements from the Government for the extra amounts which originally could have been withdrawn from employees' MPF accounts for settling SPs or LSPs, whether the authorities will study the feasibility of that proposal?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the Government's response to Mr TANG Ka-piu's question is as follows:

The offsetting of severance payments (SP) and long service payments (LSP) against the accrued benefits arising from employers' contribution to Mandatory Provident Fund (MPF) involves the interests of various stakeholders. Introducing changes to the existing arrangement will affect the retirement benefits of employees and the operating costs of employers, especially those of small and medium enterprises (SMEs). At present, the community has not yet reached any consensus on the matter.

The Government has all along been attaching great importance and listening carefully to the views of different sectors of the community, especially those of employees and employers, on the offsetting arrangement. Earlier on the Legislative Council Panel on Financial Affairs and Panel on Manpower held a joint meeting to gauge the views of deputations from different sectors including a number of labour groups, employers and business organizations on the MPF offsetting arrangement. The views of the employers and employees on this issue, as expressed at the meeting, were sharply divergent. The labour sector was concerned that the offsetting arrangement would reduce MPF accrued benefits for employees, and strongly called for abolishing the offsetting mechanism as soon as possible so as to enhance retirement protection for employees. On the other hand, employer groups considered that the offsetting mechanism represented the consensus reached after extensive consultation when the MPF arrangement was passed into law. Employer groups agreed to support the implementation of the MPF system because the Government clearly stipulated

in the MPF Bill to permit offsetting of SP/LSP by MPF accrued benefits arising from employers' contributions. They maintained that abolition of the offsetting mechanism would not only amount to a breach of the consensus then, but would also increase employers' financial burden and impact significantly on the business environment of SMEs in particular. Hence they objected strongly to the abolition of the offsetting mechanism.

The Government notes that different sectors of the community have recently actively expressed through different channels their respective views and suggestions on the offsetting arrangement. The current retirement protection system has four pillars, one of which is the MPF. As such, the offsetting arrangement of MPF is related to retirement protection. There has all along been a substantial body of opinion in the community that the retirement protection function of MPF should be strengthened. The Commission on Poverty will launch a six-month public consultation on retirement protection in December this year. We will in that context consult different sectors on matters that render the MPF not being able to discharge its inherent retirement protection function such as the offsetting arrangement. On completion of the consultation, the Government will analyse and study in detail the views collected and examine this issue holistically. We will maintain an open mind in listening to different views and will be very prudent in considering any proposals that involve the use of government funds. We hope that both employees and employers could consider the matter from a holistic point of view and be sympathetic and accommodating towards each other's position. In the spirit of reaching common ground whilst accepting each other's differences, we hope that employees and employers could through inclusive and rational discussion build consensus and forge the greatest possible mutual understanding in tackling this issue.

MR TANG KA-PIU (in Cantonese): *President, the Secretary just said that he hoped that employees and employers could build consensus, and be sympathetic and accommodating towards each other's position in considering the matter. Then, will the executive authorities and the Legislative Council be sympathetic and accommodating towards each other's position? The authorities will launch a six-month public consultation in December this year, but by the time when the consultation is finished, the term of office of the current Legislative Council has already come to an end. Does the Secretary respect the very clear aspirations of the current Legislative Council? The Hong Kong Federation of Trade Unions has already put forward questions concerning the offsetting arrangement on a*

total of seven occasions in the current Legislative Council, including four questions at Legislative Council meetings and the questions raised at the Chief Executive's Question and Answer Sessions. The upcoming consultation has been procrastinated for a very long time. Is the consultation long overdue?

Besides, I notice that in the main reply, the Secretary is, in a way, "slapping his own face". On the one hand, he said that, "At present, the community has not yet reached any consensus on the matter." However, in the third paragraph, he said, "We will in that context consult different sectors on matters that render the MPF not being able to discharge its inherent retirement protection function such as the offsetting arrangement." In other words, apart from certain people in the business sector, all other sectors, including the labour, professional and fund management sectors, consider that the offsetting arrangement will undermine the effectiveness of the MPF.

As this matter has been procrastinated and the progress of this matter remains stagnant, I would like to ask the Secretary: Does the biggest obstacle come from the divergent views within the Government while the business sector is being favoured?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr TANG for his question and concern.

First of all, I have to respond that the current Government is very serious in following up this issue and we are definitely not evasive. Second, we also have a very clear timetable. During the consultation on retirement protection to be launched at the end of this year, matters of Members' concern will also be touched upon. Third, he mentioned that the term of office of the Honourable Members will come to an end in July next year, which is a fact. However, we should not forget that the tenure of the current Government will end at the end of June 2017. In other words, we still have time. The most important point is that we can reach a consensus. Things will be easily handled if there is a consensus.

I always think that if there is no consensus and we insist to implement the measure, it will be counter-productive. Therefore, during the upcoming six-month consultation, we will do a lot of work so as to attain a consensus. We will work together to gain a better understanding of the problems and to study the

data. We hope that society can conduct discussion in an informed, impartial and objective manner, with a view to exploring a way forward. When a consensus is reached, we can move forward.

MR TANG KA-PIU (in Cantonese): *President, the Secretary has not answered my question. Is there any consensus within the Government? Is there any consensus between Secretary K C CHAN and him? This matter was left unattended and procrastinated for three years by Secretary K C CHAN. It was not until now that the Secretary has become the responsible official for this issue.*

PRESIDENT (in Cantonese): Secretary, concerning the consensus within the Government, do you have anything to add?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the Government of course cares about this issue. When I stand here today, I am speaking on behalf of the Government of the Special Administrative Region (SAR). I am not speaking for myself.

MR ANDREW LEUNG (in Cantonese): *President, the Chief Executive said to the labour sector in his election manifesto back then that he would progressively reduce the proportion of the offsetting amount. However, he has also actually said to the business sector that he would review the legal regulations and administrative measures which were unfavourable to the business environment, and that when formulating new legal regulations, he would assess their impact on the business environment of SMEs and small business operators.*

I would like to ask the Government whether it has conducted any in-depth study on the impact of the abolition of the MPF offsetting arrangement on the entire economy and the business environment, particularly the impact on the SMEs and the relations between employers and employees. If not, will it conduct a detailed assessment and then carry out a consultation, so as to "build consensus" as mentioned by the Secretary in the last paragraph of the main reply, before this measure is incorporated in the Policy Address?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr Andrew LEUNG for his views and his supplementary question. We totally agree with him.

In fact, concerning retirement protection and the offsetting arrangement, the offsetting arrangement, in particular, is rather complicated and has its historical background. As we all remember, the SP arrangement has been put in place since 1974, and then the LSP arrangement since 1986. At that time, there was no retirement protection system at all. Hence, the then Government encouraged employers to formulate protection arrangements for employees upon their departure or retirement. In this process, for the sake of providing incentives for employers, the offsetting arrangement has been allowed and laid down in the Employment Ordinance, with the aim of sparing the employers from making double payments. The above is the fact. However, of course, after a lapse of 20 years, our society has also witnessed certain changes. For example, the number of outsourced workers has increased, and grass-roots workers are always affected by the offsetting arrangement.

As a matter of fact, we understand the difficulties concerned. The employers absolutely have grounds. However, we cannot turn a blind eye to the plight faced by the employees. Hence, this is a dilemma. The issue is complicated and we have to handle it cautiously. We cannot act carelessly and recklessly. We need to reach a consensus seriously, and map out a proposal which is acceptable to all. We have to strike a balance between employers' affordability and the need to protect employees' rights and interests.

The Government will not make a decision recklessly without the support of objective conditions, grounds and data. Therefore, in the process, for example in the six-month consultation which is due to commence at the end of this year, we hope that the community can conduct a serious and in-depth discussion. I also thank Mr LEUNG. We will conduct data analysis and research work as necessary, and we will certainly take up the follow-up work.

DR FERNANDO CHEUNG (in Cantonese): *President, concerning the MPF, if we browse the webpage of the Mandatory Provident Fund Schemes Authority, we see that it basically is about retirement protection. We cannot see any*

relationship between the offsetting arrangement and retirement protection. On the contrary, the offsetting arrangement is gradually weakening the retirement protection function of the MPF.

As Mr Andrew LEUNG said earlier, before the Chief Executive assumed office, he indicated in his election manifesto that he would progressively reduce the proportion of the offsetting amount. President, in the reply today, the Secretary is basically playing the role of a mediator. He called upon both employees and employers to be sympathetic and accommodating towards each other's position, and to build a consensus. However, when the Chief Executive assumed office, he had a very clear stance.

As the Secretary is representing the Government and the entire political regime of LEUNG Chun-ying today, regarding the MPF offsetting arrangement, does his stance of reducing the proportion of the offsetting amount remain changed? If so, what has he done to realize this undertaking?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the main reply has already given a clear account that during the retirement protection consultation to be launched at the end of this year, we will surely bring up such issues for discussion. The MPF is an important pillar among our four pillars, while the offsetting arrangement is a matter of public concern. Everyone hopes that the MPF can exercise its inherent retirement protection function. Therefore, in the course of consultation, we will definitely not evade this issue. Also, in the course of consultation, people will have the opportunity to air their own views and provide some suggestions. Upon the conclusion of the consultation process, we will conduct analysis and explore a way forward. Nevertheless, the undertaking made by the Chief Executive and the SAR Government still exists. He never said that he would not do so. However, of course, in this process, as he mentioned in the Question and Answer Session last week, we surely have to exercise caution and work together after a consensus has been reached. At the end, the Government still has to lead the way.

MR LEE CHEUK-YAN (in Cantonese): *President, the Secretary just mentioned that he had been working seriously in the past. However, we think that he is only serious in assisting LEUNG Chun-ying to "go back on his words". At the*

Question and Answer Session held last week, I urged LEUNG Chun-ying to realize his undertaking. The answer at present can only prove one thing, and that is, he will continue to "go back on his words". The Secretary's answer at present can prove a few things. First, he has not done anything in the past. Second, we still have to wait for the consultation which will take six months to conduct. After the six-month consultation, the term of office of the current Legislative Council will have come to an end and the matter will be left to the next Legislative Council. Besides, by that time, there is only a short span of six months before the expiry of the tenure of LEUNG Chun-ying as the Chief Executive. If procrastination continues and the report is released in mid-2016, there is hardly any time left for enacting legislation.

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

MR LEE CHEUK-YAN (in Cantonese): *President, I thus want to ask the Secretary one question. His responsibility is to promote government policies. His responsibility is not — I reiterate — is not to prepare election manifesto for the candidate running for the next Chief Executive election. Is that right? If he starts the consultation work now, this matter can only be dealt with by the Government of the next term. Then what is the point of doing it now?*

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

MR LEE CHEUK-YAN (in Cantonese): *The candidate running for the next Chief Executive election may propose to abolish the MPF system once and for all. This is also possible.*

PRESIDENT (in Cantonese): Mr LEE, please do not make further comments.

MR LEE CHEUK-YAN (in Cantonese): *I am not making further comments. Hence, my supplementary question is that Secretary Matthew CHEUNG is being paid to work for the current Government, why is he taking up additional*

responsibility for himself by starting to prepare the election manifesto for the candidate running for re-election in the next Chief Executive election? He does not have any responsibility to do that. After the consultation, the measure cannot be implemented in the current term at all. Then what is the point of doing all that?

PRESIDENT (in Cantonese): Mr LEE, please do not make further comments.

MR LEE CHEUK-YAN (in Cantonese): *I am not making further comments. That is why I have just raised my question. President, did you hear my question? He is now actually not doing his job ...*

PRESIDENT (in Cantonese): Mr LEE, you have already raised your supplementary question. Secretary, please answer.

MR LEE CHEUK-YAN (in Cantonese): *He is preparing the election manifesto for the next term ...*

PRESIDENT (in Cantonese): Secretary, please respond.

MR LEE CHEUK-YAN (in Cantonese): *... He therefore continues to "go back on his words".*

PRESIDENT (in Cantonese): Secretary, will you respond to Mr LEE's supplementary question?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, in fact, any person of good sense can see that we have been promoting this matter pragmatically. As I also mentioned earlier, we still have time. The most important point is that with the availability of the consultation outcome, if employers and employees can reach a consensus and decide on our direction by

agreeing that there are some areas worthy of consideration, it will be easier for us to proceed with the work. Be it the next Government or the current Government, it can proceed further with the work along that direction.

MR LEE CHEUK-YAN (in Cantonese): *He has not answered whether he is working for the Government of the next term.*

PRESIDENT (in Cantonese): Mr LEE, your earlier supplementary question is a censure on the Secretary. The Secretary has already responded.

MR FRANKIE YICK (in Cantonese): *President, in the latter half of the second paragraph of the main reply, the Secretary mentioned that back then, employer groups considered that the offsetting mechanism represented the consensus reached after extensive consultation. This is the first point. The second point is that it was clearly stipulated in the then MPF Bill that offsetting of SP/LSP by MPF accrued benefits arising from employers' contributions was permitted. I thus want to ask the Secretary one question. As he mentioned earlier that he was speaking on behalf of the Government today, is the Secretary prepared to breach the undertaking made by the previous Governments in the light of a proposal made in the election manifesto of our incumbent Chief Executive?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, as I mentioned earlier, this issue has its historical background, and it is very complicated. When the Ordinance was enacted 20 years ago, the offsetting arrangement was indeed allowed. Such an arrangement was made to provide incentives for employers in order to encourage them to put in place private schemes to protect their employees. At that time, for the sake of providing incentives for employers, the offsetting arrangement has been allowed and laid down in the Employment Ordinance. This is the fact and is also an undertaking back then.

Nonetheless, we also have to understand that after 20 years, the present labour market and employment market in Hong Kong have already changed. There are a lot of outsourced jobs, and this was not the case back then. Nowadays, it is common to hire outsourced workers. For grass-roots workers, if

their MPF contributions have to be offset on several occasions, their MPF accrued benefits will have not much left. This is also a fact. However, employers also have their grounds, while employees' aspirations are also substantiated. Therefore, we are standing in the middle between the two sides. We hope that we can work together to find a solution that is affordable to employers while the problems encountered by employees can also be resolved in the long run. While this issue cannot be easily tackled, we have never been evasive. This issue will also be brought up in the upcoming retirement protection consultation. We hope that this can be openly discussed in society, and different options and good proposals may come up. The Government will consider them in a humble manner.

MR FRANKIE YICK (in Cantonese): *President, the Secretary said that due to changes in the labour market ...*

PRESIDENT (in Cantonese): Mr YICK, the Secretary has already given an answer. If you want to raise another supplementary question, please queue up again and wait for your turn.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has the successful experience of introducing legislation on paternity leave. This was led by the Government, and legislation followed after the pilot scheme was successful. The arrangement of offsetting SP against MPF contributions is now proposed to be abolished. In government-subsidized organizations, the employment of personal assistants of Legislative Council Members, for example, basically does not give rise to any labour disputes. While consultation is not necessary, controversy also does not exist. Under the circumstances, why does the Government not take the lead in abolishing the offsetting arrangement? As the Government had once introduced a pilot scheme on paternity leave in government departments prior to the enactment of legislation on paternity leave, why does the Government not adopt the same practice in respect of the abolition of the offsetting arrangement so that the Government can establish an example as a good employer in the first place? In regard to employers and employees, the Secretary said that he would have consultation and discussion again. In fact, I do not know when this will be done. However, should the Government take the lead in introducing the abolition? I hope that the Secretary will not evade this question.*

PRESIDENT (in Cantonese): Mr WONG, you have already raised your supplementary question. Secretary, please answer.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I thank Mr WONG for his supplementary question. At the present stage, the Government has no intention to take the lead in doing so. However, we do not exclude the possibility that in the course of consultation in future, if there is any new development, the Government will review this stance. Nevertheless, we have to understand that it is not the most important point for the Government to take the lead at present, as the Government has not employed many such workers. The present concern mainly surrounds the business sector. However, during the process, we have to consider the affordability of the business sector. Therefore, I hope that during the process, the Government can be given more space and time. During the six-month consultation which will commence at the end of this year, the community can have extensive discussion on the subject matter. This may give rise to some useful proposals. When we have come to consensus, we may be able to rationalize this issue. Therefore, the Government must be given space and time to deal with this issue.

MR WONG KWOK-HING (in Cantonese): *President, the Secretary has not stated any justifications for refraining from tackling the easy and uncontroversial parts first.*

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

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I just said that at the present stage, the Government has no such intention. However, I reiterate that this does not mean that we will never intend to do so in future. At the present stage, we think that we should focus on conducting the consultation exercise, which is a major issue.

MR WONG KWOK-HING (in Cantonese): *He said there was no such an intention. Is it a justification at all? The Government basically has not stated any justifications.*

PRESIDENT (in Cantonese): Mr WONG, there should be no debate during Question Time. If you have any views on the Secretary's answer, please discuss with the Secretary in the Ante Chamber later.

MR POON SIU-PING (in Cantonese): *Mr TANG Ka-piu has also asked about the imposition of a five-year transitional period on the abolition of the offsetting arrangement as proposed by some academics. Of course, the Secretary said earlier that there were views from various sectors and he would conduct a consultation. He also emphasized that concerning the offsetting arrangement, the views of the employers and employees were sharply divergent. In fact, this proposal from the academics can narrow down the differences between them theoretically. I would like to ask the Secretary: Will he submit the academics' proposal to the Labour Advisory Board (LAB), so that it can be discussed by employers and employees as soon as possible? Earlier on, the Secretary said he hoped that a consensus could be reached. If both employers and employees accept this proposal, can the offsetting arrangement be abolished as soon as possible? Will the Government consider that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thank you, Mr POON. We will, during the six-month consultation, consult the LAB, various trade unions and employer groups. We will not merely conduct a single consultation. Therefore, we hope to conduct an extensive, informed, in-depth and objective discussion, with a view to finding a way forward that is acceptable to all parties.

MISS CHAN YUEN-HAN (in Cantonese): *The more I listen, the more I get crossed really. What is the Secretary talking about? He said that these are controversial issues. However, I think that controversy between employers and employees is a matter of course, and contradictions always exist. In the process, the Government should take the lead to resolve the differences. Mr TANG Ka-piu asked the Secretary what he had done in these three-odd years. Mr TANG said that we had put forward questions on seven occasions. In fact, the number should be more than that. Other related Panels of the Legislative Council have also discussed this issue on many occasions. I queried what the Government has done. President, strictly speaking, they get paid for doing nothing. President, I will raise my supplementary question. When you are facing ...*

PRESIDENT (in Cantonese): Miss CHAN, please do not respond to other Members' supplementary questions, and raise your supplementary question now.

MISS CHAN YUEN-HAN (in Cantonese): ... *President, my supplementary question is very simple. Since the Secretary knows that there are a lot of outsourced workers nowadays, and that their MPF accrued benefits, after being offset, will have not much left at the end — this is what the Secretary said earlier — why does the Government, which has the largest number of outsourced workers, not take the lead in abolishing the arrangement? Why does the Government not take the lead? The Government always talks about justice and morality. It actually is ...*

PRESIDENT (in Cantonese): Miss CHAN, you have already raised your supplementary question. Please sit down, so that the Secretary can answer.

MISS CHAN YUEN-HAN (in Cantonese): *President, I ask the Secretary why the Government does not take the lead in abolishing this arrangement for its own staff, so that their MPF contributions will not be offset. This is the easiest thing to do. The outsourced workers and general labourers are the ones mostly affected. President, I would like to ask the Secretary about this.*

PRESIDENT (in Cantonese): Miss CHAN, you have been repeating Mr WONG Kwok-hing's supplementary question. Secretary, do you have anything to add?

MISS CHAN YUEN-HAN (in Cantonese): *I have not repeated the question. The Secretary has to answer it. How can he not even proceed with the simplest task?*

PRESIDENT (in Cantonese): Miss CHAN, please sit down immediately.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my answer to Miss CHAN's supplementary question is the same as the answer to Mr WONG Kwok-hing's supplementary question. At the present stage, we do

not have such an intention. Nevertheless, as I said earlier, the situation may change. In the course of consultation in future, if there are new views, we may reach a consensus after extensive discussion in society. In such circumstances, we will not exclude the possibility of reconsidering the Government's stance in this regard.

PRESIDENT (in Cantonese): This Council has already spent nearly 23 minutes on this question. Fourth Question.

Organ Donation

4. **DR ELIZABETH QUAT** (in Cantonese): *President, recently, a 19-year-old young girl in a critical condition suffering from pulmonary hypertension died while waiting in vain for suitable lungs for transplant. Also, only at the last minute did a 46-year-old man with liver failure receive a liver transplant to gain a new lease of life. It has been reported that the organ donation rate in Hong Kong is lower than those in other regions. In 2011, there were about 35 deceased organ donors per million population (pmp) in Spain, 17 donors pmp in the European Union but less than five donors pmp in Hong Kong. While the demand for organ transplant in Hong Kong has been increasing year after year, organs available for transplant are in acute shortage. In this connection, will the Government inform this Council:*

- (1) *as there are currently only 174 000 registrations recorded on the Centralized Organ Donation Register, how the authorities will step up efforts in promoting the message of organ donation, and whether they will arrange staff to proactively approach members of the public, at places where they apply for identity cards, passports, driving licences and public library cards and donate blood, to invite them to consider signing an organ donation card; if they will, of the details; if not, the reasons for that;*
- (2) *as there are currently only nine organ transplant coordinators in Hong Kong, who are responsible for liaison work on organ transplant matters at around 40 public hospitals throughout Hong Kong, whether the authorities will increase the manpower such that at least one coordinator is provided for each public and private*

hospital, so that apart from persuading families of persons who have just passed away to donate the organs of the deceased, they may also devote more efforts in promoting organ donation among staff, patients, etc. in hospitals and conduct registration for them; if they will, of the details; if not, the reasons for that; and

- (3) *whether it will implement a new policy to increase organ donation rate, such as by stipulating that where deceased persons have not raised any objection before death to organ donation, they will be deemed to have given consent to donate their organs for transplant after death, as well as enacting legislation to provide that organ donation cards have a legal effect similar to that of wills, in that unless the signers have changed their mind before death, other persons (including their families) do not have the right to object, after the signers have passed away, to the donation of their organs for transplant; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, for patients suffering from end-stage organ failure, organ transplant is their hope for gaining a new life. Organ transplants in Hong Kong, be it from cadaveric or living donations, are subject to regulation under the Human Organ Transplant Ordinance, which aims mainly to ensure that no commercial dealing is involved in the organs for transplant.

Organ donation and transplant, and eventually whether patients can be saved, depend on a number of factors. The Hospital Authority (HA) has put in place mechanisms to handle and co-ordinate the clinical aspects involved in the process. However, one of the most important factors, which is beyond our direct control, is the attitude of the general public towards organ donation. In this regard, it is the Government's policy to gradually inculcate a culture of organ donation in the community with a view to reducing reluctance or hesitation of individuals and family members in donating organs.

Hong Kong has seen an overall increase in organ donation rate. It rose from about four donors pmp in 2005 to about 6.1 pmp in 2013, which is higher than that of other developed economies in Asia such as Malaysia (0.5) and Japan (0.66), but remains lower than some Western countries. Organ donation rate is affected by a number of factors, including demographic structure and death rate,

attitude of individuals and their family members, and clinical factors. Given the differences in background, customs, culture and individual circumstances, we cannot make direct comparison.

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

- (1) At present, members of the public may register their wish to donate organs after death through the Centralized Organ Donation Register (CODR) managed by the Department of Health (DH) by mail or through the Internet. Currently, more than 179 000 registrations are recorded in the CODR. Besides, members of the public can carry signed organ donation cards or express their wish to healthcare workers. In the event that a deceased person had not indicated his/her wish by signing the organ donation card or registering in the CODR, his/her organs can still be donated with the consent of his/her family members.

To impress upon the general public the importance of organ donation and to gradually inculcate a culture that is receptive to and appreciative of organ donation, the DH has been making promotional efforts on different fronts in collaboration with the HA and non-governmental organizations (NGOs).

The DH launched the CODR in November 2008 to encourage the public to register their wish to donate their organs after death. In recent years, the DH has introduced an IT platform to facilitate members of the public to register as organ donors. The DH has also taken the following promotional measures:

- (i) establishing an institution-based network by inviting public bodies, private companies and NGOs to work in collaboration with the Government to promote organ donation, and to encourage registration in the CODR in institutions. There are currently over 300 supporting organizations;
- (ii) enhancing public understanding and acceptability of organ donation through public education activities such as exhibitions and seminars. In the past three years, the DH

organized about 170 seminars and exhibitions in various places such as hospitals, government buildings/offices, Immigration Tower, and so on;

- (iii) launching promotional activities on radio, television, the Internet and other media; and
- (iv) encouraging public participation through electronic means such as setting up an Organ Donation Fan Page in a social networking website to enhance the promotion of organ donation among the younger population.

Since 2008, we have cumulatively distributed more than 2.1 million leaflets with CODR registration forms. The DH also arranged distribution of promotional leaflets and CODR registration forms at blood donor centres. We will also consider arranging distribution of such promotional leaflets or materials at other locations.

To recognize the charitable acts of organ donors and their families, the Government has established the Garden of Life in Kowloon Park. Characterized by special landscape and architecture, the design of the garden echoes the theme "Light Up Lives" of organ donation.

Over the years, the DH has organized various activities to celebrate the anniversaries of the launch of CODR and further promote organ donation. To celebrate the seventh anniversary of the launch of CODR, the DH will, in collaboration with the Hong Kong Medical Association, the HA, Hong Kong Society of Transplantation and Hong Kong Liver Foundation, organize talks in November, to further promoting registration for organ donation among the public through joint efforts with primary care doctors.

- (2) The duties of transplant co-ordinators of the HA including the following three areas:

- (i) Approach families of brain stem dead patients who may be potential donors and explain to them the details of organ donation in the hope that they will give consent.
- (ii) Within the HA, promote organ donation among healthcare staff to raise their awareness of it.
- (iii) Provide support and co-ordination for external organ donation promotional activities.

At present, the HA has seven transplant co-ordinators. Regarding the work of approaching families of brain stem dead patients mentioned in item (i) above, effective contacts have generally been made. As for items (ii) and (iii), the HA has increased its establishment to nine transplant co-ordinators in 2015-2016 to strengthen internal and external promotion of organ donation. As such work virtually requires various professional community partners (including the DH and other interested community and professional groups) to collaborate, transplant co-ordinators play a supportive and co-ordinating role to create a positive atmosphere for organ donation in the whole community. The HA will review the effectiveness of the latest enhancement and the manpower of transplant co-ordinators as appropriate.

- (3) The Government seeks to enhance public understanding and acceptance of organ donation through different approaches, including strengthening education and publicity.

Adopting a legislative approach like drawing on overseas experiences to introduce mechanisms such as "automatic organ donation" and "opting out systems", or to provide "organ donation card" with legal effect so that it can form part of a will, are very different from the existing organ donation regime. Under the existing regime, family members of organ donors have the right to refuse the request for organ donation on behalf of the donors. We must respect their wishes. Before implementing any new proposals, we should ensure that they are acceptable to the public, and a fair, transparent and widely acceptable mechanism will be developed. We will continue to discuss with the professional

sectors and interested parties in the light of the recent discussions on organ donation in the community and duly consult the public before making any substantial changes to the existing regime.

The Government plans to assess more in-depth the public's understanding and acceptance of organ donation via the Census and Statistics Department's Thematic Household Survey. In the meantime, the DH will continue to step up its efforts in promoting organ donation.

DR ELIZABETH QUAT (in Cantonese): *President, some 2 500 seriously ill patients on the verge of dying are now struggling every day to live on and organ donation is their only hope of gaining a new lease of life. The Democratic Alliance for the Betterment and Progress of Hong Kong has been making ongoing efforts in promoting organ donation. We conducted surveys in 2012 and 2015 on this issue, both of which showed similar results. The surveys found that 23% of the respondents had signed organ donation cards and 45% indicated that they would not do so. However, in the survey conducted this year, 54% of the respondents indicated their willingness to sign organ donation cards if they were approached to do so, which is 14% higher than the 2012 survey. Hence, if proactive efforts can be made to approach members of the public to sign organ donation cards, the result would be impressive. As it is a matter of life and death and life is precious, my supplementary question is whether the Government has tried all its channels and means to enlist public support in signing organ donation cards? In my main question, I asked the Government whether it had proactively approached members of the public at all its service provision points, whether sufficient manpower was available in each hospital to proactively approach people, and whether it would immediately examine the implementation of a new regime. The Secretary only replied that the Government would review the matter. I hope that the Secretary can be more precise in his reply and tell us what he will actually do.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, Dr QUAT's question is mainly about whether we will consider the exploration of more channels to provide information to those members of the public who are willing to donate organs but do not know the convenient means to express their wish, and to facilitate their participation in the regime. In this regard, we*

definitely will take this into consideration. Next, we will consider stepping up distribution of promotional leaflets at the places suggested by the Member where currently no relevant work is done.

The promotional leaflet currently used by the DH to promote the CODR contains a simple organ donation form. If members of the public, after receiving this leaflet, understand and agree with its content, they can directly fill in the form and submit it to the DH through various channels. We will arrange dedicated staff to contact them again to confirm their wish and clarify certain information before filing their registration.

DR ELIZABETH QUAT (in Cantonese): *President, I wish to further ask the Secretary: How will he proceed with the study of the new regime? Can a new regime be implemented at all?*

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

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, if the new regime mentioned by Dr QUAT refers to some other approaches, including a legislative approach, as I have said just now in the last part of my main reply, we will continue the discussion with the relevant professional sectors. We first need to know whether the professional sectors' views have changed over the years because, as I have said several times in public, we had a relevant discussion about 10-odd years ago. At that time, both the professional sectors and the public were not very receptive to non-voluntary arrangements. We will now discuss with the professional sectors again and, as I have pointed out just now, we will assess more in-depth the public's understanding and acceptance of organ donation via the Census and Statistics Department's Thematic Household Survey.

PROF JOSEPH LEE (in Cantonese): *President, in the Secretary's main reply in relation to the part on promoting organ donation, it is mentioned that 2.1 million registration forms have been distributed and about 180 000 registrations are now on the CODR, accounting for about 9%. I would like to ask the Secretary: Does the Administration have any data on the age distribution of the 180 000 CODR*

registrants recorded since 2008? If such data are available, will he target the work of organ donation promotion at specific age groups, such as in the form of life education?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I will reply in two parts. First, although I do not have at hand the age distribution data that Prof LEE mentioned, I will provide the data later if necessary, provided that such data are available. Besides, in the past 20 to 30 years, I myself have participated in numerous organ donation promotional activities organized by the HA, professional bodies or even those organized by the DH. I can tell Members that the promotional activities target at a wide range of people and cover many different groups. As I have pointed out in my main reply just now, in order to enhance the promotion among the younger population, we have recently made use of information technology platforms to promote organ donation. Hence, I believe if there are groups that we still have not approached, we will enhance our work and conduct more promotion, training and education for these groups in a focused manner.

PROF JOSEPH LEE (in Cantonese): *President, I would like to ask the Secretary to provide such data later and clearly state the means he will adopt to target promotion and publicity at different age groups.*

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

SECRETARY FOR FOOD AND HEALTH (in Cantonese): If such data are available, I will provide them to Members as far as practicable. (Appendix I)

MR CHAN CHI-CHUEN (in Cantonese): *President, I very much support the organ donation scheme to save lives. I signed an organ donation card when I was at school, but I only learnt recently that registration in the CODR can be done online, which is very convenient and I have made online registration as well. I suggest that the Secretary can promote this scheme to all Legislative Council Members and staff of Members' offices because not every Member is aware of it.*

Secretary, I wish to consult your opinion. There are restrictions on blood donation in Hong Kong. For instance, male homosexuals, that is men who have had sex with another man, are deemed permanently unsuitable to give blood. I would like to ask the Secretary: Is there similar restriction on organ donation? If there is, I will have to withdraw my registration. If not, why do blood donation and organ donation have two different sets of criteria? Is there any medical justification for the difference?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I do not have the relevant information at the moment. However, as far as I know, there are different criteria for donating different organs and these criteria are evolving as well. Simply put, the same set of standards may not be applicable to different human organs or tissues. I will, after the meeting, try to see if I can provide any relevant information to Mr CHAN. (Appendix II)

MS STARRY LEE (in Cantonese): *President, promoting organ donation across the community is a process which requires the changing of social atmosphere and habits. I hope that the Bureau can proceed with the work in a continuous, persistent, vigorous and more innovative manner. In fact, the two incidents mentioned by Dr QUAT have provided a very good opportunity for us to take this job to the next level. There are two main proposals under discussion in society. One is the opt-out proposal and the other is giving "organ donation card" legal effect so that it can form part of a will. Simply put, if I have signed an organ donation card, my family cannot oppose my wish of organ donation. In my opinion, the latter is easier to secure support from the people of Hong Kong or the Chinese community. I would like to ask the Secretary: Does he agree to this view? Will he adopt this approach in the first place?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, when we consider this issue, the first proposal ... I forgot the order of the two proposals she mentioned ... regarding the proposal of giving legal effect to organ donation wish or organ donation card so that it can form part of a will, we will bring this issue up in the next round of discussion, so as to collect the views of the professional sectors and members of the public. Regarding the opt-out proposal, we will also bring this issue up in the new round of discussion and we do not rule

out the possibility of including this proposal in the opinion survey. However, if the Member asks me whether I have reservation about this proposal, my answer is that I do have greater reservation about it.

First of all, Hong Kong people in general, as well as the mainstream medical sector, very much hope that organ donation can be done by voluntary rather than non-voluntary means. Besides, in places where legislative means is adopted to enhance organ donation rate, the effectiveness varies. For example, legislative means is effective in Spain whose organ donation rate is relatively high, but it is not that effective in some other countries, such as Singapore whose organ donation rate is not very high. Hence, some countries may be able to boost their organ donation rate, but does the boosted rate reflect an effective legislative means, or does it simply reflect their local culture, especially their view about death and the level of acceptance towards organ donation? We need to conduct further analyses before coming to a conclusion.

DR KWOK KA-KI (in Cantonese): *President, people in Hong Kong have witnessed the death of a 19-year-old young girl who had waited in vain for organ donation. It is a frustrating and sad fact that is too hard to accept. It is even more frustrating that after more than 20 years of so-called "work" done by the Government, the current number of registrations on the CODR only accounts for less than 2.5% of the population. The work that the Secretary mentioned just now has been carried on for 10 to 20 years. President, if it is effective, the situation now will not be so undesirable.*

I wish to ask the Secretary through the President two questions: What is the magnitude of increase in the physical resources provided by the Government in this regard over the past 10 years? More importantly, the other question is: if the prevailing policy is not feasible, will the Government conduct a review to see what more practical and feasible means are available to revitalize the organ donation scheme? It is because the Government has become increasingly indolent in its work in the past 20 years. It is more and more difficult to find relevant announcements of public interest or information in the media or in other places.

PRESIDENT (in Cantonese): Dr KWOK, you have raised your supplementary question. Please let the Secretary answer.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, increasing the organ donation rate to enable more patients in need of an organ to gain a new lease of life through organ donation and transplant is the goal of the Government. It is also the goal that many co-workers in the professional sectors have been working very hard for. If the Government is criticized for not doing enough in this regard, we will surely accept the criticism no matter what. But we all know that organ donation is a common goal that the Government, many professional bodies and individuals have been striving for. Hence, I believe the criticism that we are not working hard enough or even indolent is unfair to all those who have participated in the work concerned.

However, as Members may be aware, we uphold the value of goodwill and voluntary means when it comes to organ donation. We will thus try our very best to change social atmosphere and habits as well as people's mindset, especially their hesitation about donating their loved ones' organs. I believe Members can see the efforts that we have made. As I have just said, I have participated in the work concerned for the past 10 to 20 years. I hold that the efforts made in this regard by the professional sectors and the Government are actually on the increase. Moreover, recent surveys show that members of the public may not hesitate to donate their own organs, but they do hesitate when they have to decide on their deceased family member's behalf to donate his/her organs, especially when they are unsure of their deceased family member's wish of organ donation.

Hence, first of all, as some Members have said just now, we should strive to provide convenient means and more contact points for those who wish to donate organs but do not have the registration forms and do not know the means to make registration. Second, we have to ensure that organ donation registrants will inform their family about their wish so that their good intention will not be wasted. We will enhance our work along these directions.

Moreover, as I have said just now, we will not rule out the possibility of adopting other regimes, but we will pursue this matter under the principle of respecting the wish of the public and their family members.

DR KWOK KA-KI (in Cantonese): *President, I have specifically asked the Secretary just now about — perhaps he does not have the information now, but I hope he can provide it after the meeting — that is, how many resources has the Bureau injected in the past 10 years to enlist more people to support organ donation?*

PRESIDENT (in Cantonese): Secretary, can you provide the information after the meeting?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I will strive to find if any physical records are available which can indicate the amount of resources we have injected. (Appendix III) However, I believe these physical records will not be comprehensive. As I have said just now, apart from the Government, healthcare institutions, the professional sectors and NGOs have also made considerable efforts in promoting organ donation in the past 10 to 20 years. Hence, even if I can provide information after the meeting, such information may not be able to cover the resources provided by these parties.

PRESIDENT (in Cantonese): We have spent more than 25 minutes on this question. Fifth question.

Solicitation on Streets by Sex Workers

5. **MR CHAN HAN-PAN** (in Cantonese): *President, the solicitation on the streets (on-street solicitation) by sex workers coming to Hong Kong from the Mainland to engage in prostitution activities has caused great distress to residents of certain districts over the years. The authorities have conducted numerous law enforcement operations but with little effect. Some residents have relayed to me that their daily lives as well as the overall image of the community have been adversely affected. In this connection, will the Government inform this Council:*

- (1) *of the number of law enforcement operations conducted against on-street solicitation in each of the past five years; whether the authorities have monitored if on-street solicitation revived after the*

law enforcement operations; if they have monitored, of the details; if not, the reasons for that; the number of cases in which prosecutions were instituted against the owners who let their flats to other persons for the purpose of prostitution in each of the past five years, as well as the effectiveness of such prosecution actions ;

- (2) *given that on-street solicitation continues to exist despite repeated crackdowns, whether the authorities will consider raising the penalties by amending the legislation for greater deterrent effect, and introducing new measures for curbing such activities; if they will consider, of the details; if not, the reasons for that; whether they have plans to step up investigations to crack down on crime syndicates that control prostitution by sex workers so as to reduce on-street solicitation; if they have such plans, of the details; if not, the reasons for that; and*
- (3) *of the number of visitors to Hong Kong arrested in each of the past five years for engaging in prostitution activities and, among them, the number of persons who were engaged in on-street solicitation; whether the authorities have stepped up interception of persons suspected to be entering Hong Kong for engaging in prostitution activities; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): President, the Police are highly concerned about and are committed to the combat of illegal prostitution. The primary objectives of police enforcement actions are to prevent exploitation of others for the purposes of prostitution, combat organized prostitution activities, and lessen the nuisance to members of the public that vice activities may cause. The act of prostitution itself is not illegal; the targets of police actions are people who control sex workers for prostitution and keep vice establishments, instead of sex workers, unless the latter are involved in other offences, including "soliciting for an immoral purpose" in public places or breaching the conditions of stay. In addition to stepping up patrols by uniformed officers at black spots, the Police have been taking intelligence-led enforcement actions. The Police will, having regard to the law and order as well as manpower situation in each district, continue to tackle the problem in a rigorous manner.

My reply to various parts of Mr CHAN's question is as follows:

(1) and (2)

There are a number of provisions in the current legislation in Hong Kong that may be invoked against the crimes of "controlling of prostitution" by conferring adequate enforcement power upon law-enforcement agencies. Related offences that are stipulated under Part XII of the Crimes Ordinance (Cap. 200) include "control over persons for the purpose of unlawful sexual intercourse or prostitution", "living on earnings of prostitution of others", "causing prostitution" and "keeping a vice establishment". The maximum penalty of the above offences ranges from a fine of \$10,000 and imprisonment of six months to imprisonment of 14 years. The Police have all along been taking proactive enforcement actions against such offences, and, for the purpose of tackling cross-border organized prostitution activities, maintain contact and exchange intelligence with law-enforcement agencies outside Hong Kong. Furthermore, as a deterrent to the illegal act of "soliciting for an immoral purpose" in public places, the Police shall, in addition to stepping up patrol at relevant black spots, take intelligence-led enforcement actions.

Figures of persons arrested by the Police for being involved in "procuring/controlling of prostitution" and "keeping a vice establishment" in the past five years are at Annex 1. The Police do not maintain statistics on the number of anti-vice operations conducted.

With regard to the premises connected with the keeping of a vice establishment, the Police shall keep a close watch on the activities therein and issue warnings to the owners where appropriate, reminding them that it is against the law to permit their premises to be used for habitual prostitution. Under the Crimes Ordinance, any person who permits or lets premises for use as a vice establishment shall be charged with the offence of "letting premises for use as a vice establishment", "tenant etc. permitting premises or vessel to be kept as a vice establishment" or "tenant etc. permitting premises or vessel to be used for prostitution", and shall be liable on conviction to a maximum imprisonment of seven years. In the past five years,

there were a total of 17 prosecutions involving the above three offences, among which, 11 were convicted. Furthermore, if the offence of "keeping a vice establishment" or one of the three offences mentioned above is committed within a specified period and such an offence is connected with the same premises, the Police may apply to the Court for a closure order under section 153A of the Crimes Ordinance to close the premises in question for six months, as a deterrent to tenants, occupiers or persons-in-charge of the premises.

We note that illegal prostitution may also involve other unlawful acts, such as operation of an unlicensed guesthouse, illegal alteration of a unit and breach of conditions of stay. In this connection, the Police may launch a joint operation with other relevant departments depending on the circumstances and needs, and may adjust their strategies as appropriate for effective law enforcement.

- (3) The Immigration Department (ImmD) is committed to the combat and prevention of acts in breach of the conditions of stay by people coming to Hong Kong as visitors, including taking up unlawful employment involving sex work. The measures and enforcement actions taken by the ImmD are as follows:
- (i) to scrutinize visit visa/entry permit applications and reject applications if the applicant's purpose of visiting Hong Kong are found to be in doubt;
 - (ii) to perform immigration control at various control points to prevent visitors from entering Hong Kong to engage in activities not commensurate with the conditions of stay;
 - (iii) to enhance intelligence collection and initiate enforcement operations against doubtful intermediaries or agents;
 - (iv) to step up investigation and prosecution actions against persons engaging in acts in breach of the conditions of stay and also the intermediaries or agents which aid and abet them;

- (v) to step up joint enforcement actions with other law-enforcement agencies; and
- (vi) to enhance publicity to remind the public that hiring illegal workers is a criminal offence and that employers have to inspect travel documents of non-Hong Kong permanent resident job seekers before hiring them; and encourage the public to report illegal employment via hotline, facsimile, mail or online platform.

With a view to effectively deterring Mainland visitors from entering Hong Kong in an attempt to take up illegal employment, including taking up unlawful employment involving sex work, the ImmD will continue to exchange intelligence with the Mainland authorities. Furthermore, in accordance with the established mechanism, the ImmD will pass the particulars of the convicted Mainland residents to the Mainland authorities concerned for cancellation of their exit endorsements and such residents shall be prohibited from visiting Hong Kong for two years.

Annual statistics of persons arrested for being suspected of taking up unlawful employment involving sex work in the past five years are at Annex 2. Visitors who are not prosecuted but reasonably suspected to have engaged in activities against the Immigration Ordinance will be subject to the ImmD's examination upon their subsequent visits to Hong Kong. If their purposes of visiting Hong Kong are found to be in doubt, they will be refused entry and immediately removed from Hong Kong.

The ImmD handles each and every visit visa/entry permit application in a stringent manner and in accordance with prevailing policies. Applicants must meet normal immigration requirements, including having no criminal record, raising no security or criminal concerns to the Hong Kong Special Administrative Region and so forth, as well as meeting the relevant specific eligibility criteria before a visit visa/entry permit is considered. If the applicant has any adverse records or breaches, the ImmD will, in the light of individual circumstances, consider refusing the application.

Annex 1

Number of persons arrested by the Police for being involved in "procuring/controlling of prostitution" and "keeping a vice establishment" in the past five years

	2011	2012	2013	2014	January to August 2015
Procuring/controlling of prostitution*	54	66	77	31	31
Keeping a vice establishment	285	342	243	164	122

Note:

- * The offence of "procuring/controlling of prostitution" includes "control over persons for the purpose of unlawful sexual intercourse or prostitution", "causing prostitution" and "living on earnings of prostitution of others", and so on.

Annex 2

Number of persons arrested for being suspected of taking up unlawful employment involving sex work in the past five years

Year	Number of Arrestees
2011	3 939
2012	3 619
2013	3 829
2014	4 133
2015 (January to September)	3 373

Note:

The above arrestees include those having contravened the conditions of stay (such as overstaying) and those who were illegal immigrants.

MR CHAN HAN-PAN (in Cantonese): *President, regarding the institution of prosecutions against the use of premises as vice establishments, irrespective of whether prosecutions were made against the owners or the tenants, there were*

only a total of 17 such cases in the past five years. Secretary, is the figure on the low side? In fact, in many districts, upon seeing the red lights outside such premises, one can tell that these premises are suspected vice establishments. Furthermore, a member of the public once told me that he had reported to the Police the suspected use of his neighbouring unit as a vice establishment and the suspected conduct of illegal activities by two-way permit holders in the premises concerned. Eventually, the Police took action and detained those people merely on the ground of breaching their conditions of stay. The cycle keeps going on because groups of Mainland women holding two-way permits are suspected to continue their operation in the said premises. This has caused grave disturbance and dissatisfaction to that member of the public.

I would like to ask the Secretary: Are the Police too passive in cracking down on the permitting or letting of premises for use as illegal vice establishments? Moreover, in view of the persistently high number of female two-way permit holders from the Mainland who come to Hong Kong and engage in prostitution activities, will the Police consider co-operating with the public security officials on the Mainland by informing, via the public security officials on the Mainland, the family members of these women on the Mainland that the women were arrested and repatriated for engaging in prostitution activities in Hong Kong as a means to deter such activities?

SECRETARY FOR SECURITY (in Cantonese): Mr CHAN has raised two supplementary questions. The first one is that in the past five years, there were a total of 17 prosecutions involving the offences of letting or permitting premises for use as vice establishments, and the figure is considered to be on the low side. I would like to point out that, if we were to analyse the matter from a holistic perspective, we should not use the figure of prosecutions made under a particular ordinance as a benchmark. As I mentioned in the main reply earlier, what is the purpose of the Police's enforcement actions? If a flat is only occupied by one person, then no offence has been committed. However, if that occupant is a visitor, then we may take enforcement action in respect of the suspected offence of "breaching the conditions of stay" as mentioned by Mr CHAN just now. This is the first point.

Secondly, we maintain contact with owners' corporations (OCs) of various buildings. As long as OCs can provide us the information and the lead, we will be able to take targeted actions. Overall speaking, our work in this area will continue.

Mr CHAN's second supplementary question is whether the Police will pass the information of such arrestees to the Mainland authorities, and then request the Mainland authorities to inform the arrestees' family members. As to this supplementary question, first, we should respect the approach adopted by the Mainland authorities in handling such cases in accordance with Mainland laws and regulations, since they have their own established practices. What we can do for the time being is to inform the Mainland authorities of the prevailing situation. The Mainland authorities will take measures to prohibit these offenders from visiting Hong Kong for at least two years. As to whether or not the Mainland authorities can take further actions, I believe it is a matter for the Mainland authorities to deal with.

As far as I know, the Mainland authorities are highly concerned about prostitution activities, as they are facing similar problems and they have their own approach to deal with such problems. Of course, we habitually exchange information with our Mainland counterparts during our day-to-day dealings with them.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, on-street solicitation has indeed been causing troubles to the community over the years, and various District Councils frequently offer their views on these problems to the Police at the district level. After listening to the Secretary's reply to Mr CHAN Han-pan's question, I find that various police districts as well as the ImmD under the Security Bureau are indeed facing great difficulties as far as law enforcement is concerned. Nevertheless, with reference to the law enforcement actions in the past, it seems that the Police always adopt a high-profile approach in taking such action. That is, after taking enforcement action, the arrest of dozens or even hundreds of two-way permit holders suspected of participating in prostitution activities is always widely covered by the media. Actually, this approach can achieve deterrent effects. In this connection, will the Police mount large-scale operations or even undercover operations whenever this type of law enforcement action is taken? The most important issue is that it is quite difficult to apprehend the ringleader. What measures can the authorities take to crack down on these ringleaders so as to prevent them from facilitating prostitution activities and arranging a foothold for two-way permit holders upon their arrival in Hong Kong? Will the Secretary answer this supplementary question?*

SECRETARY FOR SECURITY (in Cantonese): I wish to thank Mr LEUNG for his supplementary question. According to the figures at hand, a large number of high-profile enforcement actions have been taken in each police district, including Mr LEUNG's constituency, the Yuen Long District. Why do we disseminate this message through the media every time after our enforcement action? Actually, first, we wish to tell members of the public through such messages that we have not slackened our pace. Second, we wish to disseminate the message and tell the law breakers that we have been keeping a close watch on them all along.

Of course, other than sex workers, such prostitution activities also involve other people, and if society pays attention to these people, it may possibly help to reduce these activities. As to procuring/controlling of prostitution or letting premises for prostitution activities, these are undoubtedly illegal activities. As to apprehending the ringleaders as suggested by Mr LEUNG, the Police have all along been highly concerned about that issue. In fact, I should put it this way: They are criminals who try to exploit others or gain profits through procuring/controlling of prostitution. The Police are highly concerned about the work in this area. Why? It is because that is one of the main sources of income of triads. For that reason, we will crack down on these activities with utmost efforts. I have also made reference to some court judgments. Unless the prosecution failed, otherwise all the convicted persons involved were immediately jailed. Therefore, the penalty is not lenient. Of course, even so, some people will still try to defy the law. Nevertheless, I can tell Mr LEUNG that the Police will spare no effort to crack down on these activities, since I also note that local residents, no matter men or women, are greatly disturbed by these activities, in addition to the problems mentioned by Mr CHAN earlier. I believe we must pay continuous attention to this issue and ongoing efforts are required to take enforcement actions in accordance with the law.

MR CHAN CHI-CHUEN (in Cantonese): *President, I believe the Secretary will not deny that the Police have taken undercover operations when dealing with cases involving sex workers. Some concern groups on sex workers often complain the abuse of power by the Police during undercover operations, commonly known as "free sex service", which means that undercover police officers, to various extents, receive free sex service from sex workers. Mr CHAN Han-pan's main question is about the number of illegal sex workers arrested in the past five years, and my supplementary question is whether the Police have maintained statistics on the number or information of police officers receiving*

free sex service during undercover operations in the past five years? Moreover, have the Police drawn up internal guidelines to prohibit police officers from receiving free sex service during undercover operations? Or have the Police specified the extent to which such officers may receive free sex service? Will police officers be subject to disciplinary actions if they violate such guidelines?

SECRETARY FOR SECURITY (in Cantonese): My reply is very simple. The primary objectives of the Police's undercover anti-vice operations are to prevent the procuring/controlling of prostitution for the purpose of exploitation and to crack down on organized prostitution activities. As I explained earlier, when genuine needs arise, it is necessary for the Police to conduct undercover operations in order to bring the unscrupulous elements to justice.

The Police have laid down clear instructions for police officers to follow during such operations: Intimate contact with sex workers should only be made for operational purposes and when such genuine needs arise. After the operational purposes are fulfilled, the intimate contact should be stopped instantly. The Police have put in place an effective mechanism to monitor the actions of all police officers. Relevant officers will, prior to every operation, receive detailed briefing by senior members of the Police. Such monitoring arrangement is considered to be effective.

If there is any complaint, the Police will unquestionably deal with it according to established mechanism. We will strictly handle all complaints in a fair and just manner in accordance with the mechanism of complaint against Police. After a complaint has been dealt with in accordance with this mechanism, the complaint case will be submitted to the Independent Police Complaints Council (IPCC), and the IPCC will review each and every complaint case.

MR CHAN CHI-CHUEN (in Cantonese): *President, the Secretary replied that intimate contact should be stopped instantly when the purpose of the operation was fulfilled, does it mean that the relevant guidelines allow police officers to receive sex service for free? My supplementary question is very clear, to what extent should such free sex service be allowed?*

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

SECRETARY FOR SECURITY (in Cantonese): President, my reply just now is very clear.

MR CHAN HAN-PAN (in Cantonese): *According to the explanation made by the Secretary just now, if only one woman provides sex service in a flat, she has not committed any offence. However, the contentious point is that many flats are sub-divided into several small units, and several people provide sex service inside these "sub-divided units" at the same time.*

For that reason, I would like to ask the Secretary: What is the Government's definition of a "flat"? Will it be considered a "flat" as long as it has an independent water meter or electricity meter? Or should the entries recorded by the Land Registry be used when defining a "flat"? If the Government has not laid down a clear definition, the problem will persist, causing unnecessary nuisance to members of the public. Will the Secretary give a clear reply?

SECRETARY FOR SECURITY (in Cantonese): It should be determined on a case-by-case basis. In connection with Mr CHAN's supplementary question, I can tell Mr CHAN that if a flat is sub-divided into several small units, and the owner, landlord or the principal tenant has the knowledge that the sub-tenant is engaging in such activities, then we will consider him a member of the same vice group, or he is under the control of the same person. Under such circumstances, we will carry out investigation and see if the provision of "letting premises for use as a vice establishment" can be invoked and if the condition of causing prostitution is met and there is evidence, we will definitely take enforcement actions. Even if we are in doubt, we may issue a warning letter to him by telling him that the practice is illegal, and that we will take action if there is sufficient evidence.

PRESIDENT (in Cantonese): Last question seeking an oral reply.

Enhancing Quality of Coastal Waters of Victoria Harbour

6. **DR PRISCILLA LEUNG** (in Cantonese): *President, on 26 June this year, the Finance Committee of this Council approved the funding application for the project on further enhancing the quality of coastal waters of Victoria Harbour so that the authorities might commission a consultancy study on how to reduce near shore pollution and enhance the quality of coastal waters of Victoria Harbour. On the other hand, I have received a number of complaints from members of the public that the coastal waters of Victoria Harbour give off very strong stench, which has caused serious nuisance to members of the public. The problem is particularly serious in areas along the Hung Hom Promenade. After enquiring with a number of government departments, I have found that one of the causes for the emission of stench from the seawater is that the foul water pipes of some private buildings in Hung Hom have been misconnected to the stormwater drainage system (foul water pipe misconnection). In this connection, will the Government inform this Council:*

- (1) *of the number of foul water pipe misconnection cases followed up by the authorities in each year since 2013; among such cases, the number of those in which sewage was discharged into the Victoria Harbour Water Control Zone and the number of rectified cases, with a breakdown by District Council district;*
- (2) *of the respective numbers of foul water pipe misconnection cases since 2013 in which rectification was made after warnings or advices had been issued to the persons concerned, cases in which rectification was made after the persons concerned had been prosecuted or statutory repair orders had been issued by the authorities, and cases in which the authorities implemented measures to rectify the misconnection because no rectification had been made despite the aforesaid law enforcement actions taken by the authorities; whether the authorities have reviewed the effectiveness of such law enforcement actions; if they have, of the outcome; and*
- (3) *given that the aforesaid consultancy study will not be completed until early 2018, whether the authorities will, prior to the implementation of the measures to be proposed by the consultancy study, step up inspections and efforts in combating illegal discharge*

of wastewater and sewage, and enhance the initiatives to rectify foul water pipe misconnection, so as to demonstrate the determination of the Government to enhance the quality of coastal waters and develop a water-friendly culture?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the Government has been taking actions and allocating resources to improve the sewage collection and treatment systems for enhancing the quality of coastal waters of the Victoria Harbour. With the phased implementation of the Harbour Area Treatment Scheme (HATS), the water quality of the Victoria Harbour has been significantly improved. Upon the completion of the HATS Stage 2A by the end of this year, the water quality of the Victoria Harbour will be further enhanced. However, the densely-populated coastal areas have been developed for many years; some sewage discharges are not diverted into the public sewers network and some sewage and pollutants are discharged via storm water drains into the coastal waters of the Victoria Harbour causing odour problem. These discharges arise from various pollution sources, including misconnections of foul water pipes from buildings and public sewers to the storm drain systems, as well as street-side pollutants that enter the storm drain system, and so on. In order to reduce pollution of the near shore waters, the Environmental Protection Department (EPD) has taken a series of measures in collaboration with other departments. They include:

- (i) The EPD, Buildings Department (BD) and Drainage Services Department (DSD) jointly follow up and rectify the foul water pipe misconnection cases;
- (ii) The DSD carries out inspections, repairs and clearing of sediments for the public sewers and storm drainage systems on a regular basis;
- (iii) The Food and Environmental Hygiene Department (FEHD) and Highways Department provide routine rubbish cleansing services for public places and streets, as well as regular clearing of sediment in gully traps to reduce the amount of pollutants discharged into the storm drainage system, thereby affecting the near shore water quality and generating odour problem; and

- (iv) The Marine Department cleans up floating refuse and provides free refuse collection service for vessels on a daily basis to prevent potential odour generated by the marine refuse.

Regarding the control of wastewater discharge, the EPD applies the Water Pollution Control Ordinance in seeking to intercept illegal discharge of sewage or other pollutants, whereas the BD regulates foul water pipe misconnections found in buildings under the Buildings Ordinance. In addition, the FEHD seeks to tackle illegal discharge of wastewater into storm water drains in order to reduce the amount of pollutants entering the storm water drains.

Misconnected foul water pipes within buildings are unauthorized building works, the BD will take enforcement action in accordance with the Buildings Ordinance and the prevailing enforcement policy. In handling such cases, it takes time for the BD to carry out investigations to identify the units and the owners involved. When the concerned owners are identified, the BD will notify them and request arrangement of repair works in the first place. Where no repair works is carried out by the owners, the BD will serve removal or repair orders to them demanding necessary works to be commenced and completed within a specified period. Those owners who fail to comply with the orders may be prosecuted, and the cost for government contractors to carry out the necessary works will be recovered from the owners. The BD takes enforcement action against foul water pipe misconnections in buildings as an ongoing commitment, and will continue to work on such cases with the EPD and other departments concerned.

Regarding the questions raised by Dr Priscilla LEUNG:

- (1) The EPD found a total of 276 foul water pipe misconnection cases in Hong Kong between 2013 and September 2015. Among them, 157 cases or 57% were found within the Victoria Harbour Water Control Zone, of which 121 cases (about 77%) were rectified and the remaining 36 cases are being processed. Please refer to the Annex for a breakdown of these cases by district.
- (2) Of the 276 cases stated above, about 80% or 218 cases were rectified after warnings or advice had been issued and three cases were rectified after repair orders had been served. We are currently following up on the remaining 20% of the cases. Our experience indicates that the enforcement actions have been effective.

However, there are many pollution sources and also various factors causing the odour, we are therefore making preparations now to commence a consultancy study in order to formulate detailed improvement proposals.

- (3) The tendering of the said consultancy study is now underway. It is expected to begin early next year and specific recommendations will be drawn up upon completion in two years' time. While the study is being conducted, relevant government departments will step up the following measures in tackling the water quality and odour problems found in the near shore waters:
- (i) Firstly, the EPD will progressively conduct surveys on foul water pipe misconnections in the Victoria Harbour areas. The EPD will tackle identified misconnection cases speedily together with the relevant departments. The survey for Hung Hom is underway and is scheduled for completion by the end of next year. The one for Wong Tai Sin will begin early next year. In addition, the EPD will check against illegal discharges during routine inspections and take enforcement actions against them. The DSD will also rectify any misconnections found in the public sewer systems.
 - (ii) Furthermore, the DSD will seek funding approval for the Upgrading of Central and East Kowloon Sewerage Project — Phase 3. Apart from increasing the loading capacity of the sewerage systems, the project will also improve about 7 km of existing sewers in San Po Kong, Kowloon City, To Kwa Wan, Hung Hom and Tsim Sha Tsui. The improvement works would help reduce and prevent untreated sewage from entering into the storm drainage systems.
 - (iii) Regarding the odour problem at the Hung Hom Promenade, the DSD is exploring with the EPD the feasibility of installing dry weather flow interceptor in the district. In addition, the DSD conducted cleansing works for the box culverts and the outfalls in the vicinity in mid-2015, and would increase the frequency of cleansing when necessary with a view to relieving the odour problem at the Hung Hom Promenade.

In conclusion, we fully understand the public expectations in resolving the water quality and odour problems in the near shore areas of Victoria Harbour. Through the consultancy project, we would develop detailed plans from the perspective of pollution prevention and control at the sources in order to resolve the problems in the long run. During the interim, we will continue to make the best efforts to take feasible measures in order to reduce foul water discharges into the coastal waters of Victoria Harbour.

Annex

Cases of Foul Water Pipe Misconnection Found in
Victoria Harbour Water Control Zone

<i>District</i>	<i>Number of Foul Water Pipe Misconnection Cases</i>		
	<i>2013</i>	<i>2014</i>	<i>2015</i> <i>(by late September)</i>
Central and Western	1 (all rectified)	2 (all rectified)	2 (1 case rectified)
Eastern	11 (8 cases rectified)	6 (3 cases rectified)	1 (all rectified)
Wan Chai	3 (2 cases rectified)	1 (all rectified)	3 (all rectified)
Kowloon City	5 (3 cases rectified)	5 (all rectified)	9 (5 cases rectified)
Kwun Tong	3 (2 cases rectified)	17 (14 cases rectified)	21 (16 cases rectified)
Sham Shui Po	1 (all rectified)	0	1 (all rectified)
Wong Tai Sin	4 (all rectified)	1 (in progress)	1 (in progress)
Yau Tsim Mong	17 (15 cases rectified)	16 (13 cases rectified)	12 (9 cases rectified)
Kwai Tsing	3 (all rectified)	2 (all rectified)	7 (4 cases rectified)
Tsuen Wan	2 (all rectified)	0	0
Total	50 (41 cases rectified)	50 (40 cases rectified)	57 (40 cases rectified)

DR PRISCILLA LEUNG (in Cantonese): *President, the Chief Executive has in fact proposed a water-friendly culture in the policy addresses of the past three years. We certainly welcome this idea. Also, the Chief Executive has visited the promenade in West Kowloon to appreciate the coastal scenery and experience the stench emanated from the coastal waters. The Under Secretary for the Environment has also been there in person. Therefore, I consider that the attitude of the authorities towards this issue is proactive.*

The Secretary has stated in part (3)(iii) of the main reply that dry weather flow interceptors will be used at the Hung Hom Promenade, and study will be conducted to explore the feasibility of installing the device. I would like to know, according to the authorities' estimation, is the installation of interceptors the answer to the current odour problem? It is because minor discrepancies are found between the numbers provided by the authorities to me and those received at respective District Councils (DCs). According to figures from the authorities, a total of 19 foul water pipe misconnection cases were rectified in the areas covered by the Kowloon City District. However, in reply to a relevant question raised by us in the DC early this year, the BD officially replied that, the number of cases in Hung Hom District alone was 19. So, in the first place, I would like them to find out the exact number of cases.

Secondly, the BD also stated in its reply to the DC that the BD had arranged rectification works for seven cases in respect of which the period for complying with repair orders had expired, and the Government would recover the costs from the owners concerned. Apart from installing dry weather flow interceptors, is this the way that you handle the problem? This certainly applies to other districts. I am just quoting it as an example. Regarding cases that have not been rectified or have remained in progress after repair orders have been served, does the Secretary handle such cases in this way?

PRESIDENT (in Cantonese): *Dr LEUNG, you have raised many questions just now, but Members can ask only one supplementary question. Please repeat the supplementary question that you would like the Secretary to reply.*

DR PRISCILLA LEUNG (in Cantonese): *Alright, President. The supplementary question that I would like the Secretary to reply is: As he has mentioned that many foul water pipe misconnection cases remain in progress, are*

these the cases that have not been rectified after the BD has issued repair orders? Will the BD arrange contractors to carry out rectification works, and subsequently recover such costs from the owners concerned?

PRESIDENT (in Cantonese): I do not recall that this was one of the supplementary questions raised by you just now. Secretary, please reply.

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Dr Priscilla LEUNG for raising the question. Basically, Members and the Government have the same concerns. Relevant government departments have joined hands to deal with the problem. I would like to make a brief explanation first. The figures provided by the BD to the DC and those submitted by the EPD to the Legislative Council may have different ways of expression. Sometimes, the EPD would regard a whole block of building as a unit of calculation, while the BD would count the number of flats in a building. Therefore, when we give a figure of five, the BD may give a figure of 10. Despite a difference in the figures, they are referring to the same thing, only that they are presented in different ways.

Regarding the Member's concerns, the experience of the BD indicates that a high proportion of cases were rectified after the issuance of advices. Of course, different complications arose in different cases. In some cases, the problems could not be addressed until after the service of repair orders by the departments concerned. Some owners do not rectify the situation even after they have received such orders, and the Government has to arrange contractors to carry out the works and recover the costs afterwards. This is the practice prescribed by the existing legislation.

MR TONY TSE (in Cantonese): *President, the Secretary has mentioned in the main reply that one of the possible reasons for the less than satisfactory quality of the coastal waters of the Victoria Harbour includes misconnection of foul water pipes from buildings to the storm drain systems. In this connection, I would like to ask the Secretary: Is the existing monitoring system on pipe connections adequate or satisfactory? Are technicians carrying out pipe connection works required to satisfy certain qualifications requirements or to register? Are owners required under the mandatory building inspection scheme to check for misconnection of foul pipes?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank the Member for his question. By and large, all relevant departments take concerted efforts to deal with sewage or odour problems near the shore. The supplementary questions raised by Members today mainly surround the ways in which the BD monitors this type of minor works or drainage works under the Buildings Ordinance. In respect of these two areas, we are of the view that the BD has its own system. Of course, some owners may not go through a proper process in the commissioning of contractors, and some problems may arise as a result. We also understand that it is about the qualifications of technicians. On the other hand, it is about the complexities inherent in old buildings. The alignment of the pipelines inside the buildings may be very complicated, which may compel some people to take the easy way out by connecting sewage pipes with fresh water pipes, resulting in misconnection of water pipes. Overall, we can grasp the situation through cross-departmental co-operation, and we may, under the relevant Ordinance, adopt various methods to notify the owners concerned for improvement. As I have just mentioned in the main reply, the issuance of advices has achieved a rather satisfactory result on the whole, with over 80% of buildings taking the initiative to promptly deal with the problems upon receipt of advices. Of course, for some other complicated cases, we may have to issue advices repeatedly, or serve repair orders on them, or rectify the problems through government contractors. This is the overall direction.

MR TONY TSE (in Cantonese): *President, can the Secretary clarify whether his reply indicates that the current monitoring system on pipe connections is flawed?*

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

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, Members, I believe that the current system does have its basis. However, I consider that certain complications may arise in the course of operation, thereby giving rise to a situation that the practices adopted by some owners may not comply with the Buildings Ordinance. The BD will certainly conduct reviews in this respect, and in the meantime, it is also actively following up on misconnection cases. In fact, most of the cases have been handled properly.

MR JAMES TO (in Cantonese): *President, the odour problem in the areas around Hung Hom and Tai Kwok Tsui is really serious. Tackling the issue at the source is of course the long-term solution, but the biggest challenge lies in how misconnection cases can be identified?*

President, I would like to raise a question about systematic improvement: Can the requirement of checking for pipe misconnections be included in the mandatory or voluntary repair schemes, or other schemes such as the Operation Building Bright in future? It is because the problem is not confined to a particular flat if water pipes misconnections are identified in the entire building. In such a case, sewage will be discharged continuously into storm water drains and the odour problem will persist. Front-line government staff point out that the problem is very difficult to detect if misconnection occurs in water mains. Therefore, can the Government implement systematic improvement measures and introduce mandatory inspection items in the mandatory repair schemes? Even if the pipes have been misconnected, just like what Mr TSE has mentioned earlier, and for example, if the pipes were misconnected in the past, there are still chances that the situation can be rectified during inspections conducted under mandatory repair schemes?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I thank Mr TO for his question. According to my understanding, some of the works carried out under the Operation Building Bright can fulfil the requirements mentioned by Members. This is conducive to resolving the problems. However, upon reviewing the cases in our hands, we found that in the more thorny cases, there were some unique causes that brought about the misconnections. Therefore, we have been taking a multi-pronged approach to commission a comprehensive consultancy study — just like what I have said earlier that studies will be conducted — and we will implement cross-departmental measures upstream, focusing on foul water pipe misconnection. Also, efforts will be made in the midstream, while intercepting measures will be taken downstream or in coastal areas. We are tackling the issues in a comprehensive manner.

Simply speaking, in regard to the Member's concerns, we have been coping with the situation through collaboration among various departments. We will implement improvement measures in due course.

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

MR JAMES TO (in Cantonese): *My question is: Will this item be included in the mandatory building inspection system?*

PRESIDENT (in Cantonese): Secretary, can the request made by the Member be included in mandatory building inspection schemes?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, we can follow up the issue with the relevant departments. (Appendix IV)

MR NG LEUNG-SING (in Cantonese): *President, part (3) of the main reply mentioned a survey on foul water pipe misconnection in the Victoria Harbour. I want to ask the Administration: Is it necessary to carry out the survey on a regular basis? Has recurrent funding been secured in the budget for this purpose on a long-term basis?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, the survey is basically divided into two parts. Regarding the first part, I thank the Legislative Council for supporting us by approving the funding for the conduct of a comprehensive and systematic study. We need the Legislative Council's support for funding.

Secondly, in the meantime, our colleagues in respective districts have, in their routine work, arranged manpower to conduct surveys and take follow-up actions as appropriate. In sum, the survey is divided into two parts, and manpower deployment and arrangements are also required. As I have just mentioned, it takes about two years before the outcome of the consultancy study becomes available. We consider that the two parts should run in parallel. Therefore, our colleagues at district level have arranged manpower in different districts to carry out relevant surveys. They will promptly follow up on any detected cases. This is the brief reply from us.

PRESIDENT (in Cantonese): This Council has spent more than 22 minutes and 30 seconds on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Fire Safety at Typhoon Shelters and Sea Bays**

7. **MR STEVEN HO** (in Chinese): *President, it has been reported that when a No. 3 alarm fire broke out at Shau Kei Wan Typhoon Shelter (SKWTS) on the day of the Mid-Autumn Festival this year, the fireboat Elite, berthed at Central, arrived at the scene 26 minutes after the outbreak of fire, and the fireboat could enter the fire scene to battle the blaze only after coordination was made by the Marine Police. In the end, 10-odd vessels were destroyed by the fire. While the authorities claimed in 2013 that the time generally required for fireboats to arrive at SKWTS was eight minutes, it actually took 24 minutes and 16.2 minutes on average for fire vessels (i.e. fireboats and fire speedboats) of the Fire Services Department to arrive at SKWTS in the past two years respectively. Some political parties and fishermen associations have repeatedly requested the authorities to enhance marine fire-fighting measures and rescue strategies, and to plan afresh the berthing arrangements in typhoon shelters, but the authorities have turned a deaf ear to their requests. In this connection, will the Government inform this Council:*

- (1) *of the support measures that have been and will be provided by the authorities for the victims of the aforesaid fire; of the details and progress of such work, and the difficulties encountered;*
- (2) *whether the authorities will provide support to the victims in meeting the costs of salvage of vessels which had sunk in the fire; whether they will exercise discretion and reduce the oil cleanup charges to be borne by the victims; whether they will streamline the relevant procedures so as to relieve the burden of the victims; if they will, of the details; if not, the reasons for that;*
- (3) *given that some victims relayed that at the early stage of the incident, there was no inter-departmental counterpart responsible for co-ordinating the follow-up work, and the victims felt worn out from running around different departments, whether the authorities will strengthen the liaison among various departments in handling such follow-up work in future so as to reduce the post-accident pressure faced by the victims; if they will, of the details; if not, the reasons for that;*

<i>Typhoon shelter/sea bay</i>	<i>Fireboat</i>								<i>Fire speedboat</i>
	<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>	<i>7</i>	<i>8</i>	
<i>Tai O Sheltered Anchorage</i>									
<i>River Trade Terminal (Tuen Mun)</i>									
<i>Sea bay near godown in Chai Wan</i>									
<i>Tuen Mun Cafeteria Beach</i>									

- (6) *whether the review of the berthing and sheltered space for local vessels being conducted by the Marine Department includes studies on increasing the numbers of berthing spaces for vessels and improving the demarcation of berthing spaces for different types of vessels, so as to avoid an increase in fire hazards due to overcrowding of vessels, and to prevent conflicts arising from berthing spaces being shared by different types of vessels (such as fishing vessels and yachts); if it does, of the details and when the authorities will publish the findings of the studies; if not, the reasons for that; and*
- (7) *given that some fishermen relayed to me that, in order to cater for the development of the fishing industry, they had purchased fishing vessels with lengths exceeding the overall permitted lengths set for the typhoon shelters at which they intend to berth their vessels and they are therefore required to regularly obtain permission from the Marine Department for their vessels to enter or stay at the typhoon shelters concerned, and such a requirement has left quite a number of fishing vessels with no alternative but to berth outside the typhoon shelters or at faraway typhoon shelters, which have seriously affected the delivery of catch by fishermen and the provision of replenishment for their fishing vessels, whether the authorities will conduct a comprehensive review of the length limits for vessels permitted to enter various typhoon shelters, so as to meet the needs for the development of the local fishing industry and avoid causing inconvenience to the operations and daily lives of the fishermen, as well as prevent such length limits from bringing about additional fire hazards?*

SECRETARY FOR SECURITY (in Chinese): President, a No. 3 alarm vessel fire broke out at Shau Kei Wan Typhoon Shelter (SKWTS) in the afternoon of 27 September this year. After receiving a fire report involving fishing vessels at 2.01 pm that day, the Fire Services Communications Centre (FSCC) immediately turned out two fireboats (namely Fireboat No. 1, which was berthed at Central Fireboat Station and was the closest to the scene of incident at the time; and Fireboat No. 4, which was berthed at Aberdeen Fireboat Station), one diving support vessel and one diving support speedboat, together with five major fire appliances on land direct to the scene.

Upon arriving at SKWTS at 2.07 pm (that is, six minutes from the time of call), the land crews boarded a police launch with fire-fighting equipment and set off for the scene for fire-fighting and rescue operation. Fireboat No. 1 and the diving support vessel also arrived on the scene at 2.27 pm (that is, 26 minutes from the time of call). As many vessels were leaving the typhoon shelter at that time to avoid being affected by the fire and were clustering at the waters near the access to the typhoon shelter, the vessels of the Fire Services Department (FSD) had to cautiously cruise through the dense cluster of vessels at a safe speed when entering the typhoon shelter. Moreover, when cruising inside the typhoon shelter, fire vessels had to take heed of vessels berthing at or navigating inside the typhoon shelter to keep a safe distance from other vessels so as to avoid collision.

In general, upon receiving a fire call relating to vessels in Hong Kong waters, FSCC will, having regard to the circumstances, despatch the fireboats and fire speedboats nearest the incident scene to handle the fire. In addition, the nearby on-shore fire stations will deploy fire appliances to provide speedy support. The actual time taken for fire vessels to arrive on the scene of marine fire is affected by various factors, for example, the location of relevant vessels at the time of call; whether the vessels are engaged in other operations (including participation in regular navigation training, exercise and inspection, or handling other emergency incidents); the marine traffic at the time; waves and tides; visibility, and so on. As such, the response time varies on each occasion.

My reply to the seven parts of the question, in consultation with relevant bureaux and departments, is as follows:

(1) and (3)

On the day of the incident, the Agriculture, Fisheries and Conservation Department (AFCD) contacted the owners of the affected fishing vessels to learn about the situation, and assisted the

fishermen in need to apply for the Emergency Relief Fund and the Fish Marketing Organization Loan Fund for repairing or replacing their damaged vessels. The AFCD is processing the relevant applications, and will continue to keep in contact with the affected owners to assist them in resuming fishing operation as soon as possible. The Marine Department (MD) has received damage reports of 29 local vessels in the incident. For vessel owners in need of assistance, the MD has verified their identities, assessed the extent of damage of their vessels, and assisted them in making applications to relevant departments or authorities for relevant financial assistance, so as to tide over the difficult times.

On the other hand, in accordance with the departmental operation manual of emergency response and relief services in the event of natural disasters, the Eastern District Office (EDO) set up an inter-departmental help desk immediately at the ground floor of the Eastern Law Courts Building, which was nearest the fire scene on the day of fire. In addition to the staff from EDO, the help desk comprised members from the Social Welfare Department (SWD), the Hong Kong Police Force (HKPF), FSD, MD and the Lands Department. At the help desk, personal details and practical needs of those affected by the fire were registered so that departments concerned could take follow-up support actions. EDO also provided emergency financial assistance to the families affected by the fire through the General Chinese Charities Fund. The SWD referred five families to an Integrated Family Service Centre for follow-up services, and helped another family with financial difficulty to apply for Comprehensive Social Security Assistance.

- (2) In general, in the event that a local vessel is in distress at sea, the Director of Marine may, according to section 56 of the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), give the owner of the vessel which is stranded, abandoned or sunk in the waters of Hong Kong such directions as he thinks fits in respect of the removal, movement, and so on, of the vessel. The oil spillage so involved will be cleaned up by the MD. For this incident, the MD has already cleaned up the oil spillage at scene according to the established procedures. As regards the salvage and disposal of the

damaged vessels, a number of owners have applied to the MD to surrender their vessels as they have difficulty in dealing with their disposal. Having regard to the circumstances of the incident and the difficulties encountered by these owners, the MD has exercised its discretion to arrange for the salvage and disposal of the wrecks for the owners at no charge.

- (4) As I have pointed out in my reply to Mr HO's question at the meeting of this Council on 24 June this year, the FSD reviews from time to time its overall marine firefighting and rescue strategies in Hong Kong as well as the related equipment. The FSD conducts risk assessment for different water areas, taking into account factors including the distribution of vessels, the utilization of shipping channels, the existence of high risk facilities at sea and along coastal areas, and so on, in deciding the location of fireboat stations and deployment of fire vessels (that is, fireboats and fire speedboats). On whether a fireboat would be deployed at a particular typhoon shelter, it depends on whether the concerned shelter is at a strategic location within that water area, and whether the shelter is a suitable berthing location for the fireboat, for example, whether the shelter is sufficiently deep, and whether a suitable site is available in the vicinity for the construction of berthing facilities for fireboats.

Regarding the concern raised by Mr HO on the response time of fire vessels, there is no standard response time for marine fire calls in Hong Kong, nor any internationally prescribed standard response time. The berthing of vessels at sea is not the same as the distribution of buildings on land. For example, vessels in larger sea areas are more widely spread and of higher mobility. Unlike the land area, there is no risk category for the marine area as reference for making regular specific risk assessments. Therefore, it is difficult to set an appropriate response time and performance pledge for individual areas of waters. That said, the FSD will assess potential fire risks from time to time and flexibly deploy existing resources to strategic positions according to the overall risk of different areas of waters and inshore installations, and will put in place appropriate operational arrangements to meet the demand of individual areas or during special periods so as to respond to potential emergency incidents.

During peak seasons including the fishing moratorium and important festive periods, fishing vessels return to berth at typhoon shelters. The fire risks of the typhoon shelters may consequently increase as fishing vessels are densely anchored therein. The FSD will therefore step up patrol along the shipping channels within the shelters, and conduct fire drills in the shelters before the fishing moratorium and the Lunar New Year every year in collaboration with the HKPF and MD, so as to enhance the efficiency in fire-fighting and rescue operations and strengthen the co-ordination among relevant departments in response to marine fires.

On publicity and public education, the FSD will organize thematic talks on fire prevention through fishermen groups, the MD and various District Offices. These talks aim to remind fishermen of the precautions when using and maintaining electrical installations on vessels and to teach them the correct way to use a fire extinguisher, and so on. The FSD will also broadcast messages about vessel fire protection and distribute fire safety publicity leaflets for vessels during the periods, with a view to enhancing the fire safety awareness of fishermen.

The FSD has considered the suggestion of providing fixed fire service installations (FSI) on the shore of typhoon shelters. However, the fire-fighting capability of FSI at fixed locations can only cover a small number of vessels since vessels are not berthed at fixed locations and are dispersed throughout the typhoon shelters. These installations are therefore considered not effective in enhancing the fire safety standard of typhoon shelters. Even if fixed FSI and other emergency equipment were installed at berthing points and on the shore of typhoon shelters, such equipment should only be operated upon the arrival of the fire personnel and appliances on land in the event of fire or other emergency incidents. When fire appliances arrive directly at the coastal locations nearest the scene, on-board monitors can be used as fire-fighting equipment. Furthermore, the installation of FSI with high pressure such as monitors on land could cause danger to the public if they were used by people without professional training. In contrast, fire appliances equipped with monitors can be deployed more flexibly to specifically target at the location of the vessel on fire and facilitate fire-fighting operations effectively. That said, the FSD is actively

considering the addition of fire-fighting equipment, such as portable fire pumps, at fire stations near typhoon shelters to enhance the land crews' fire-fighting capability and flexibility in the typhoon shelters.

- (5) The time generally required for various fireboats and fire speedboats of the FSD to arrive at various typhoon shelters or bays within their main service areas from their respective berths is set out at Annex.

- (6) and (7)

The MD is conducting a fundamental review on berthing and sheltered space for local vessels, and is comprehensively assessing the supply and demand of typhoon shelter space for local vessels. The review will look into the established mechanism for provision of sheltered space and the challenges faced, including operational requirements such as the demarcation of berthing spaces according to vessel types and the overall permitted lengths of vessels set for various typhoon shelters. So far, the consultant engaged by the MD has preliminarily completed a large-scale survey on berthing and sheltered space arrangements for local vessels. Data analysis is being conducted and upon completion, the MD will work together with representatives of the relevant departments and the trade to draw up feasible improvement proposals, having regard to the outcomes of the data analysis and practical circumstances. Relevant stakeholders, such as the Local Vessels Advisory Committee and the Harbourfront Commission, will be consulted. The review is expected to be completed in mid-2016.

Annex

The time generally required for fire vessels to arrive at the typhoon shelters or bays within their main service areas from their respective berths (in minutes)[#]

<i>Fire vessel Berth</i>	<i>Fireboat</i>								<i>Fire Speed boat</i>
	<i>1</i>	<i>2*</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6*</i>	<i>7*</i>	<i>8</i>	
<i>Typhoon shelter/bay</i>	<i>Central Fireboat Station</i>	<i>North Point Fireboat Station</i>	<i>Cheung Chau Fireboat Station</i>	<i>Aberdeen Fireboat Station</i>	<i>Tuen Mun Fireboat Station</i>	<i>Tsing Yi Fireboat Station</i>	<i>Airport Rescue Boat Berth</i>	<i>North Point Fireboat Station</i>	<i>/</i>
Aberdeen West Typhoon Shelter	/	/	/	1.5	/	/	/	/	19

<i>Fire vessel Berth</i>	<i>Fireboat</i>								<i>Fire Speed boat</i>
	<i>1</i>	<i>2*</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6*</i>	<i>7*</i>	<i>8</i>	
<i>Typhoon shelter/bay</i>	<i>Central Fireboat Station</i>	<i>North Point Fireboat Station</i>	<i>Cheung Chau Fireboat Station</i>	<i>Aberdeen Fireboat Station</i>	<i>Tuen Mun Fireboat Station</i>	<i>Tsing Yi Fireboat Station</i>	<i>Airport Rescue Boat Berth</i>	<i>North Point Fireboat Station</i>	<i>/</i>
Aberdeen South Typhoon Shelter	/	/	/	6	/	/	/	/	25
Causeway Bay Typhoon Shelter	10	/	/	/	/	/	/	/	12
Cheung Chau Typhoon Shelter	/	/	3	/	/	/	/	/	29
Kwun Tong Typhoon Shelter	/	/	/	/	/	/	/	7	17
New Yau Ma Tei Typhoon Shelter	20	/	/	/	/	/	/	/	3.5
Sam Ka Tsuen Typhoon Shelter	/	/	/	/	/	/	/	7	16
Shau Kei Wan Typhoon Shelter	/	/	/	/	/	/	/	8	16
To Kwa Wan Typhoon Shelter	/	/	/	/	/	/	/	8	12
Tuen Mun Typhoon Shelter	/	/	/	/	15	/	/	/	13
Yim Tin Tsai Typhoon Shelter	/	/	/	/	/	/	/	45	20
Tai O	/	/	/	/	46	/	/	/	5
River trade terminal (Tuen Mun)	/	/	/	/	10	/	/	/	8
Chai Wan Public Cargo Working Area	/	/	/	/	/	/	/	12	19
Cafeteria Beach, Tuen Mun	/	/	/	/	15	/	/	/	12

Notes:

The actual time taken for fire vessels to arrive on the scene of marine fire is affected by various factors, for example, the location of relevant vessels at the time of call, whether the vessels are engaged in other operations (including participation in regular navigation training, exercise and inspection, or handling other emergency incidents); the marine traffic at the time; waves and tides; visibility, and so on. As such, the response time varies on each occasion. In general, when the FSD receives a call of marine fire incident, it will deploy, apart from fire speedboats, at least two fireboats which are nearest to the incident scene for operation. In addition, the nearby on-shore fire stations will deploy fire appliances to provide speedy support.

* Fireboats No. 2 and No. 7 are currently deployed at North Point Fireboat Station and Airport Rescue Boat Berth respectively. They do not have specific service areas. The FSD would deploy them to different areas of Hong Kong waters for operation according to the operational needs. Fireboat No. 6 is deployed at Tsing Yi Fireboat Station and is responsible for waters near Tsing Yi and Ma Wan, including oil terminals, oil tanker berths and dockyards, and so on, in Tsing Yi. The typhoon shelter and bays listed above are not within its service area. In addition, the FSD has two command boats deployed at the Airport Rescue Boat Berths. They are dedicated to handle incidents happened in the waters near the airport.

Animal Abandonment

8. **MR CHAN HAK-KAN** (in Chinese): *President, some members of the public have pointed out to me that the problem of animals being abandoned has become increasingly serious, and therefore the authorities should face up to the problem, such as stepping up law enforcement and promoting the message of caring for animals. Under the existing arrangements, stray animals caught by the Agriculture, Fisheries and Conservation Department (AFCD) are kept in Animal Management Centres (AMCs) for at least four days pending reclaim by their owners. Unclaimed animals are passed on to animal welfare organizations for adoption or euthanized. In this connection, will the Government inform this Council:*

- (1) *of the number of animals received by AMCs in each of the past five years, and the percentage of such animals being euthanized;*
- (2) *whether AFCD will consider increasing the number of days for which animals are kept in AMCs to facilitate owners to reclaim their animals; if AFCD will, of the details; if not, the reasons for that;*
- (3) *whether AFCD has studied the reasons why owners abandon their animals; given that the Hong Kong Housing Authority prohibits public rental housing (PRH) tenants from keeping dogs and other animals (except small household pets) in their rental units, of the number of animals abandoned by PRH tenants in the past five years;*
- (4) *given that the Rabies Ordinance (Cap. 421) provides that a keeper of any mammal who, without reasonable excuse, abandons that animal commits an offence, of the number of prosecutions instituted by the authorities under the said Ordinance in the past five years, and the penalties imposed on the convicted persons by the court;*
- (5) *whether the authorities have reviewed the effectiveness of the current legislation on prohibiting animal abandonment, and whether they will consider increasing the relevant penalties to enhance the deterrent effect;*

- (6) *whether the authorities will, by making reference to the relevant practice of Kumamoto City, Japan, consider setting a goal of "zero euthanization of animals"; if they will, of the details; if not, the reasons for that; and*
- (7) *whether the authorities have implemented new measures in 2015-2016 to strengthen public awareness of care for animals; if they have, of the details of the new measures and the expenditure involved?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Government has been striving to promote in the community a culture of care for animals with a view to protecting animal welfare. To this end, the Agriculture, Fisheries and Conservation Department (AFCD) has established a dedicated team to devise, implement and fortify public education and publicity programmes for disseminating messages that help promote care for animals and responsible pet ownership. In fact, the World Organization for Animal Health (OIE) has pointed out that the promotion of responsible pet ownership can significantly reduce the number of stray dogs and the incidence of zoonotic diseases. At the same time, we have been encouraging members of the public to adopt stray animals and co-operating with animal welfare organizations on the provision of animal adoption services.

The Government will continue to safeguard and promote animal welfare through the above measures, with a view to reducing cases of abandoning animals.

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

- (1) Animals admitted into the Animal Management Centres (AMCs) of the AFCD include stray animals caught, animals handed over by owners and those received through other means. The relevant figures including the number of animals euthanized in each of the past five years are listed in the table below:

Calendar year	Stray animals caught			Animals handed over by owners			Animals received through other means			Animals euthanized		
	dogs	cats	others*	dogs	cats	others*	dogs	cats	others*	dogs	cats	others*
2010	6 519	3 907	411	2 345	204	68	1 689	204	31	7 420	3 047	482
2011	5 800	3 557	331	2 403	244	107	1 445	267	956	6 561	2 422	649
2012	4 722	3 027	260	2 009	248	85	1 131	98	1 276	5 675	1 950	1 160
2013	4 626	2 866	444	1 871	222	105	1 271	136	1 001	5 353	1 861	1 015
2014	3 676	1 836	1 374	1 464	132	28	809	78	656	3 868	1 039	1 594

Note:

* Including small mammals (rabbits, hamsters, chinchillas, guinea pigs and rats), pigs/cattle and poultry/birds.

- (2) At present, stray animals caught in Hong Kong, including lost pets loitering on the street, will be sent to the AMCs of AFCD for observation. For animals with a microchip implanted, the AMCs will try to locate their owners based on the information on the microchips. In general, these animals will stay in the centres temporarily for about 10 to 20 days. Those without a microchip will stay in the centres for at least four days allowing time for their owners to reclaim them. In cases where the animals concerned, be they handed over by pet owners or left unclaimed, are in good health and assessed by a veterinary surgeon as having a gentle temperament and suitable for adoption, the AFCD will arrange for their transfer to animal welfare organizations for adoption by members of the public.

The AFCD has four AMCs across the territory and the utilization of their animal keeping facilities is constantly at a high level. Allowing all animals to stay longer in the AMCs to allow more time for their owners to reclaim them would significantly reduce the space for keeping other animals, including those healthy and docile animals suitable for adoption. These animals could otherwise be able to stay in the AMCs for a longer period of time to wait for the chance of being adopted. Besides, a crowded environment in the AMCs might increase the risk of disease transmission among animals. As such, we have no plan to change the current arrangements.

- (3) As mentioned above, animals admitted into the AMCs include stray animals caught, animals handed over by owners and those received through other means. The AFCD does not have a breakdown of figures of animals being abandoned as a result of prohibition against animal keeping in public rental housing estates, Home Ownership Scheme estates or other housing estates.
- (4) As stipulated in the Rabies Ordinance (Cap. 421), a keeper of animal who, without a reasonable excuse, abandons that animal commits an offence and is liable to a maximum fine of \$10,000 and imprisonment for up to six months.

However, even if the AFCD manages to identify the owners of the abandoned animals, the owners will usually defend themselves by claiming that the animals have gone astray. In the absence of any witnesses or other evidence, it is always difficult for the prosecution authority to establish a case for prosecution, taking into account the chance of a successful conviction. The prosecution might at best initiate proceedings against the dog owners concerned for failing to control their dogs properly. In 2013, the AFCD had successfully convicted an owner under the Rabies Ordinance for animal abandonment without a reasonable excuse and he was fined \$500.

The number of dog owners prosecuted and convicted in each of the past five years for failing to control their dogs properly by allowing them to loiter in public places is as follows:

<i>Year</i>	<i>Number of successful convictions</i>
2010	365
2011	325
2012	355
2013	296
2014	331

- (5) We consider that public education is most important for safeguarding and promoting animal welfare. To this end, the AFCD has established a dedicated team to devise and implement education and publicity programmes for promoting responsible pet ownership,

including appealing to the public to carefully consider whether they are able to take life long care of the pet before purchasing it, and not to abandon animals or surrender them to the relevant authority for disposal without good cause. Through the abovementioned education and publicity programmes, the number of complaints received by the AFCD about nuisance caused by stray animals and that of stray animals caught in the past five years have dropped by 38% and 36% respectively. We will continue to implement and enhance these measures to achieve greater effectiveness. The Government has no plan to increase the relevant penalties.

- (6) A number of international animal organizations (including OIE) and the global veterinary sector generally endorse that where various measures for managing stray dogs have been implemented and yet the stray dogs caught remain high in number or not fit for adoption, euthanasia would be an appropriate solution in the circumstances. There are also cases where animals that are ill or hurt need to be euthanized to relieve them of their suffering.

As to whether the Government would follow the practice of Kumamoto City, Japan to set a goal of "zero euthanasia of animals", we believe there is no one-size-fits-all solution as each society and city has its own unique situation and considerations. Taking into account Hong Kong's own circumstances, if we do not adopt euthanasia, we will have to keep the stray animals that have not been adopted on a long-term basis. This may on the one hand have implications for public finance and land resources, while on the other hand it may result in the opposite outcome of encouraging abandonment of animals by irresponsible owners, creating a moral hazard.

As mentioned above, we consider public education most important for safeguarding and promoting animal welfare. At the same time, we have been encouraging members of the public to adopt stray animals. We also co-operate with animal welfare organizations on the provision of animal adoption and free neutering services. As a result of these measures, the number of animals required to be euthanized has decreased by 40% over the past five years. We will continue to implement and enhance these measures to achieve greater effectiveness.

- (7) The AFCD has been promoting messages of responsible pet ownership and proper care for animals through public education and publicity programmes, advising against abandoning pets or surrendering them without good cause, and emphasizing the need for dog licensing, rabies vaccination and the benefits of neutering. In 2015-2016, we have earmarked a provision of \$5 million for the implementation of the relevant education and publicity activities, including producing announcements in the public interest on television and radio; placing advertisements on different platforms such as cinemas, public transport, bus stops, magazines and websites; organizing promotional events jointly with different animal welfare organizations in shopping arcades and outdoor venues; conducting village and community campaigns, as well as holding talks in schools and housing estates. The AFCD has also revamped its website to further promote respect for animals and provide information on proper care for animals.

Arrangement for Offsetting Severance Payments and Long Service Payments with Accrued Benefits of MPF Schemes

9. **MR WU CHI-WAI** (in Chinese): *President, under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), an employer may use the accrued benefits derived from the contributions he made for an employee to a Mandatory Provident Fund (MPF) scheme to offset the severance payment (SP) or long service payment (LSP) payable to the employee under the Employment Ordinance (Cap. 57) (the offsetting arrangement). Some employees have pointed out that the offsetting arrangement undermines the interests of employees, depriving them of retirement protection. Recently, in response to reports that the Government planned to propose the abolition of the offsetting arrangement in the 2016 Policy Address, the Secretary for Labour and Welfare said that the Government had not taken any stance on the abolition of the offsetting arrangement and would continue to listen to the views from all sectors of the community. In this connection, will the Government inform this Council:*

- (1) *whether it will conduct public consultation on the abolition of the offsetting arrangement before the end of the current term of the Legislative Council; if it will, of the details and timetable; if not, the reasons for that;*

- (2) *as the information from the Mandatory Provident Fund Schemes Authority shows that the amount of accrued benefits withdrawn under the offsetting arrangement in each year from 2010 to 2014 accounted for 20% or more of the total amount of accrued benefits withdrawn in the corresponding year, and the amounts of accrued benefits withdrawn under the offsetting arrangement in 2010 and 2011 were even more than the amounts of accrued benefits withdrawn on the ground of retirement and early retirement in those two years, whether the Government has reviewed if the offsetting arrangement runs counter to the original intent of setting up MPF schemes; if it has, of the relevant details; and*
- (3) *of the respective amounts of accrued benefits withdrawn by the Government for the disbursement of (i) SPs and (ii) LSPs to non-civil service contract (NCSC) staff in each of the past three years; whether the Government has plans to abolish the offsetting arrangement when appointing new NCSC staff or offering further appointments to existing NCSC staff members, so as to take the lead in this respect; if it does, of the relevant details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, on the question raised by Mr WU Chi-wai, based on the information provided by the Policy and Project Co-ordination Unit under the Chief Secretary for Administration, Financial Services and the Treasury Bureau, and Civil Service Bureau, our reply is as follows:

- (1) The current retirement protection system has four pillars, one of which is the Mandatory Provident Fund (MPF). As such, the offsetting arrangement of MPF is related to the issue of retirement protection. There has all along been a substantial body of opinion that the retirement protection function of MPF should be strengthened. The Commission on Poverty will launch a six-month public consultation on retirement protection in December this year. We will in that context consult different sectors on matters that render the MPF not being able to discharge its inherent retirement protection function such as the offsetting arrangement.

- (2) When the Government set up the MPF Schemes in 1995, the policy intent was to adhere to the long-established offsetting arrangement under the Employment Ordinance, allowing employers to offset severance payment (SP) or long service payment (LSP) payable to employees against the accrued benefits derived from their contributions to MPF schemes so that employers were not required to make double payments. As stated above, the scope of the public consultation on retirement protection will cover the ways and means of strengthening the functions of every pillar under the retirement protection system.
- (3) Under the Non-Civil Service Contract (NCSC) Staff Scheme, Heads of Departments have to account on their own for the employment and management of as well as funding for engaging their NCSC staff. These include the calculation and disbursement of LSP and SP; and the arrangement for offsetting SP or LSP against the accrued benefits derived from the contributions made to the MPF schemes for employees. The Civil Service Bureau does not collect information on the amount of accrued benefits which were used by individual departments for offsetting SP and LSP of NCSC staff in the past three years.

On the proposal of abolishing the offsetting arrangement, the Government understands that employers and employees have different views on the issue and will continue to listen to the views from both sides. Before any decision is made by the Government on the proposal, there is no plan to change the arrangement of using the accrued benefits derived from employers' contributions to MPF schemes to offset SP and LSP of government employees (including NCSC staff).

Disconnection of Telephone Calls by Telecommunication Services Providers

10. **MR CHARLES PETER MOK** (in Chinese): *President, the Police indicated in August this year that on requests made by the Police for the purpose of cracking down on phone scams, telecommunications service operators (TSOs) had disconnected more than 50 000 suspicious telephone calls. However, the Police have not given an account of the legal basis for the aforesaid requests. In this connection, will the Government inform this Council:*

- (1) *of the provisions in the Telecommunications Ordinance (Cap. 106) and other relevant legislation which govern the acts of disconnecting telephone calls or message transmission by TSOs;*
- (2) *given that subsection (1) of section 24 of Cap. 106 makes it an offence for telecommunications officers, etc., doing certain acts to a message, but that provision does not apply to any act done by such persons for the purposes prescribed in subsection (2) of that section, whether the authorities have assessed (i) if the aforesaid acts of disconnecting telephone calls constitute an offence under subsection (1)(c) of that section (i.e., "wilfully abstain[ing] from transmitting any message or wilfully intercept[ing] or detain[ing] or delay[ing] any message"), and (ii) (if so) if such acts were done for any of the purposes prescribed in subsection (2) of that section; if they have assessed, of the outcome and justifications;*
- (3) *of the legal basis for the Police to request TSOs to disconnect the telephone calls;*
- (4) *given that under Special Condition 3.1 of the Unified Carrier Licence, the licensees shall, irrespective of whether they provide fixed, mobile and/or converged services, observe the same requirement on interconnection so as to ensure any-to-any connectivity among users of telecommunications services, whether it has assessed if the aforesaid acts of disconnecting telephone calls are in breach of such condition; if it has assessed, of the outcome;*
- (5) *when the Office of the Communications Authority (OFCA) became aware of the aforesaid operation of disconnecting suspicious telephone calls; of OFCA's role in such operation; whether the Police and OFCA consulted TSOs on the operation beforehand; and*
- (6) *whether it knows if the Communications Authority will initiate studies to clarify whether the aforesaid acts of disconnection of telephone calls are in breach of the law or the relevant licence conditions?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President,

- (1) Section 24(1)(c) of the Telecommunications Ordinance (Cap. 106) (TO) provides that a telecommunications officer, or any person who, though not a telecommunications officer, has official duties in connection with a telecommunications service, shall not wilfully abstain from transmitting any message or wilfully intercept or detain or delay any message. The full text of section 24 of the TO is at Annex.

- (2) and (3)

According to the information provided by the Security Bureau, as stipulated in section 10 of the Police Force Ordinance (Cap. 232), the Police have the duties to prevent crimes and safeguard the property of the public.

There were a total of 1 370 telephone deception cases recorded by the Police in the first six months of this year, a rise of 16.3% against the same period in 2014, which involved a total monetary loss of \$47 million. The number of such cases even reached 1 001 in the month of July alone, a surge of 3.6 times compared with 217 in the same month of 2014, with a monetary loss of \$129 million. In view of the above, there has been a pressing need for the Police to take decisive measures against such crimes.

Among such telephone deception cases, the three most common modes of operation are "Fake Kidnapping", "Guess Who" and "Pretend as Mainland Officials", and, among these three, there has been a more visible increase in the number of "Pretend as Mainland Officials" cases. By making use of the relevant applications to spoof caller IDs, fraudsters make calls via the Voice over Internet Protocol services outside Hong Kong, presenting themselves as Mainland Officials to cheat the victims.

To effectively tackle this kind of fraud, in addition to stepping up publicity education on all fronts through various channels, as well as enhancing co-operation and intelligence exchange with overseas and Mainland law-enforcement agencies, the Police have explored

feasible response measures with the Office of the Communications Authority (OFCA) and the telecommunications industry, in a bid to lessen the chance of public deception. In an effort to help the public identify incoming calls from outside Hong Kong, the OFCA requests all telecommunications operators to insert a "+" sign in the calling number display (CND) of mobile phones as a prefix for all incoming calls originating from outside Hong Kong. Furthermore, working in conjunction with major mobile telecommunications operators, the Police have sent short messages to remind the public on telephone deception prevention, with a view to disseminating such a message in a more direct and extensive manner. Individual telecommunications operators are also willing to take measures to prevent their customers from loss through deception by blocking calls with spoofed IDs, with the aim of tackling bogus phone calls from a few organizations confirmed by the Police with sufficient evidence as being impersonated by fraudsters. Prior consent has been obtained by the Police from such organizations.

Subsequent to a series of measures and with the assistance from various sectors of the community, telephone deception cases involving "Pretend as Mainland Officials" dropped to 147 in August and further to 43 in September 2015. The Police shall continue to keep a close watch on the trend and pattern of such deception cases. Rigorous enforcement actions shall be taken in an all-out effort against such crimes.

- (4) Special Condition 3.1 of the Carrier Licence provides that licensees shall interconnect their services and networks with the networks and services of other telecommunications licensees where directed by the Communications Authority (CA) to ensure that their customers can have access to any other customers of the networks and services provided by other telecommunications licensees.

The CA has not noticed any case or received any complaint from telecommunications licensees recently concerning refusals of carrier licensees for interconnection of their networks and services. In addition, the CA has not received any request from telecommunications licensees for issuance of a direction pursuant to the aforementioned licence condition.

As regards individual telecommunications service subscribers, Special Conditions 3.1 of the Carrier Licence is not applicable to cases where failure of interconnection to other networks and services is due to breakdown, damage or interception of circuits, network outage, and so on.

- (5) The Police held a number of meetings with OFCA and telecommunications operators with a view to identifying ways to tackle telephone scams. The OFCA subsequently decided to request telecommunications operators to insert a "+" sign in the CND of mobile phones as a prefix for all incoming calls originating from outside Hong Kong, thereby enabling the public to identify from the CND that the origination of the incoming calls is from outside Hong Kong.

The screening-out of bogus calls from fraudsters faking the telephone numbers of certain organizations is a collaborative effort between the Police and individual telecommunications operators, with the aim of safeguarding their customers by blocking calls confirmed to be made with bogus numbers. The CA and OFCA have not been involved in such measure.

- (6) The CA has been investigating cases concerning breaches of legislation or licensing conditions in accordance with established procedures. At present, we do not have any information to provide.

Annex

Section 24 of the Telecommunications Ordinance
Offences by telecommunications officer, etc.

- (1) A telecommunications officer, or any person who, though not a telecommunications officer, has official duties in connection with a telecommunications service, who-
 - (a) wilfully destroys, secretes or alters any message that he has received for transmission or delivery;
 - (b) forges any message or utters any message that he knows to be forged or altered;

- (c) wilfully abstains from transmitting any message or wilfully intercepts or detains or delays any message;
 - (d) otherwise than in pursuance of his duty or as directed by a court, copies any message or discloses any message or the purport of any message to any person other than the person to whom the message is addressed,
- shall be guilty of an offence and shall be liable on summary conviction to a fine at level 4 and to imprisonment for 2 years.
- (2) This section does not apply to any act done by a telecommunications officer, or any person who, though not a telecommunications officer, has official duties in connection with a telecommunications service, for the purpose of-
- (a) facilitating compliance with this Ordinance or the Unsolicited Electronic Messages Ordinance (Cap. 593);
 - (b) implementing the terms or conditions of a licence of a licensee or any contract made between a licensee and a customer of the licensee; or
 - (c) facilitating compliance with a lawful request of a customer of a licensee in connection with a service supplied by the licensee to the customer.

Internet Access Services for Residents in Remote Areas

11. **MISS ALICE MAK** (in Chinese): *President, recently, I have received complaints that some villages in remote areas, such as Chuen Lung Village, Kau Wah Keng San Tsuen and Yau Kam Tau Village in Tsuen Wan, have no access to fixed network broadband Internet access (fixed broadband) services, or are provided with such services only by a single fixed broadband service provider, and such providers charge exorbitant service fees because they enjoy a monopoly position. In this connection, will the Government inform this Council:*

- (1) *whether it knows the villages in remote areas across the territory not being covered by fixed broadband networks at present, and set out such information by District Council district;*
- (2) *whether it knows the villages in remote areas across the territory being covered only by the fixed broadband network of a single provider at present, and set out such information by District Council district;*

- (3) *whether it will consider afresh imposing conditions requiring the provision of fixed broadband services in remote areas when granting relevant licences to fixed broadband service providers in future, so as to ensure that local residents have access to such services; if it will, of the details; if not, the reasons for that; and*
- (4) *whether the authorities will extend the "Government WiFi", free public wireless Internet access service, to the villages mentioned in (1) which are not covered by fixed broadband networks, or those mentioned in (2) which are covered only by the fixed broadband network of a single provider, for use by local residents; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, 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 decided by fixed network operators (FNOs) based on their commercial considerations. With a view to encouraging and assisting FNOs to invest in network expansion, the Office of the Communications Authority (OFCA) has all along been committed to offering facilitation measures, including assisting FNOs in rolling out network across public streets, government-owned bridges and tunnels, and explaining to property management companies and owners' corporations the responsibilities and duties of FNOs and the advantages that would bring to the residents in respect of network rollout in private premises so as to enhance network coverage and access.

My response to the four questions is as follows:

(1) and (2)

The OFCA has no information on the regions in Hong Kong with no fixed broadband network coverage or with fixed broadband network coverage by one FNO only. According to the information held by OFCA, 87% of the residential households in Hong Kong (about 2.3 million households) enjoy fixed broadband network coverage by two or more FNOs.

- (3) As mentioned above, the provision of fixed broadband service, the network coverage and the type of technologies adopted are primarily decided by FNOs based on their commercial considerations. If OFCA receives enquiry or complaint alleging that the provision of fixed broadband service cannot satisfy the demand of residents in remote areas, the OFCA will relay it to FNOs and encourage them to explore feasible options with a view to enhancing the network coverage of those areas and meeting market needs.

Recently, an operator has proposed to provide wireless fixed broadband services in remote areas, and the Communications Authority has amended the Carrier Licence of the operator accordingly, allowing it to extend its broadband networks to remote areas pursuant to its plan. Another FNO has also announced that it will extend its fibre networks to remote areas, and it is expected that the next phase of the project will be completed by end of 2016.

- (4) From a technical point of view, the current Wi-Fi technology cannot function on its own. The setting up of Wi-Fi networks requires the support of broadband networks to provide Internet access services. In addition, to ensure effective use of public funds when installing Government WiFi (GovWiFi) at new premises, we will take into account the patronage of and demand for Wi-Fi services of the locations, as well as the technical feasibility, including the availability of broadband connections. To make the service facilities more cost-effective when installing Wi-Fi hotspots, priority will be given to locations with high patronage and where users can conveniently use the services. There are therefore certain limitations on extending the coverage of free public Wi-Fi services (including GovWiFi) to remote areas. However, we will continue to review and expand the coverage of GovWiFi according to service demand.

Statistics About Non-refoulement Claims

12. **MR IP KWOK-HIM** (in Chinese): *President, it has been reported that the number of claims recently received by the Immigration Department (ImmD) from illegal immigrants for non-refoulement in order to resist removal to another*

country (non-refoulement claims) has risen continuously. It is suspected that some overseas intermediaries, in their capacity as immigration consultants, help foreigners to come to Hong Kong and take up work unlawfully in Hong Kong by lodging non-refoulement claims. Some claimants brought with them documents for non-refoulement claims provided by Hong Kong lawyers before arriving in Hong Kong, and some even had their claims lodged by lawyers on their behalf before their flights landed, thus making ImmD unable to refuse their entry right away. The aforesaid situations have aroused the concern of members of the public as to whether the non-refoulement claim mechanism is being abused. In this connection, will the Government inform this Council:

- (1) of the number of non-refoulement claims received by the authorities each month since the implementation of the unified screening mechanism for non-refoulement claims in March 2014 and, among such cases, the respective numbers of cases the non-refoulement claims of which have been (i) substantiated and (ii) rejected (with a breakdown by claimant's nationality and ground for lodging the claim);
- (2) of the number of claimants, among the claimants in (1) whose claims have been rejected, who are still staying in Hong Kong and their average length of stay in Hong Kong;
- (3) of the various amounts of public expenditure incurred for handling non-refoulement claims each year since December 2009 (including expenditures on legal aid, humanitarian assistance and payroll);
- (4) of the respective numbers of solicitors and counsels currently listed on the Legal Aid Panels; the respective numbers, in each year since December 2009, of solicitors and counsels listed on the Panels who handled non-refoulement claims, and the respective average numbers of cases handled by them; and
- (5) whether it has studied if the following measures were adopted by overseas places in the past three years for preventing abuse of their non-refoulement mechanisms: stepping up law enforcement efforts to intercept illegal immigrants, expediting the procedure for assessing claims, setting a statutory time limit for lodging claims, capping the

legal aid costs, and reviewing the arrangements for granting visa-free access to visitors; if it has studied, of the results, and whether it will follow the relevant practices?

SECRETARY FOR SECURITY (in Chinese): President, foreigners who smuggled themselves into Hong Kong, who overstayed their limit of stay allowed at entry, or who were refused entry by the Immigration Department (ImmD) upon arrival in Hong Kong will be removed from Hong Kong in accordance with the Immigration Ordinance (Cap. 115). To safeguard immigration control and for public interest, they should be removed as soon as practicable.

However, pursuant to the United Nations Convention Against Torture which applies to Hong Kong since 1992⁽¹⁾, as well as multiple local court rulings since 2004, if a foreigner claims that he would face risks of torture, cruel, inhuman or degrading treatment or punishment (CIDTP), or persecution if he is removed to his country of origin, then the ImmD must determine whether his claim is substantiated following procedures that meet "high standards of fairness"; meanwhile ImmD may not remove him to his country of origin.

It must be reiterated that the United Nations Refugees Convention has never applied to Hong Kong, and persons claiming non-refoulement here will not be treated as "refugees". They will not be allowed to settle in Hong Kong, regardless of the result of their claim. They must leave when the risk they allegedly face ceases to exist. That said, if a non-refoulement claim is substantiated on grounds of persecution, the claimant will be referred to the United Nations High Commissioner for Refugees for consideration of arrangement of resettlement in a third country.

My reply to the various parts of Mr IP's question is as follows:

(1) and (2)

The Government commenced the unified screening mechanism (USM) in March 2014, with 6 699 non-refoulement claims pending screening then. By end of September 2015, the ImmD has

(1) Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment stipulates that "no State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."

determined 2 602 claims; and 1 918 claims were withdrawn. However, during the same period, the ImmD received another 8 271 claims, bringing the total number of claims pending screening to 10 450. Figures on the processing of torture/non-refoulement claims since December 2009 are at Annex 1.

Amongst the 2 602 non-refoulement claims determined, 12 are substantiated (with two of them substantiated by the Torture Claims Appeal Board (TCAB) on appeal), including four Cameroonians, three Rwandans, two Jordans, two Pakistanis, and one Sri Lankan. Claims are substantiated if, having considered all relevant factors (including facts of the case, supporting evidence, credibility of the claimant, country of origin information, and so on), the ImmD/TCAB considers that there are substantial grounds for believing that the claimant will face a risk of being subjected to torture, CIDTP, or persecution if he is removed to his country of origin. Amongst the rejected claimants, 1 897 have lodged an appeal to TCAB, 440 have departed or are pending removal arrangements, and 253 are remaining in Hong Kong for other reasons (for example, imprisoned, pending prosecution, lodged a judicial review, and so on). They have been in Hong Kong for an average of seven months since their claim was rejected.

- (3) Expenditure arising from the screening of claims has risen from \$287 million in 2010-2011 to \$644 million in this financial year, with an annualized rate of growth of around 18%; detail figures are at Annex 2. The expenditure comprises:
- Publicly-funded legal assistance: operated and managed by the Duty Lawyer Service (DLS), expenditure under the scheme has risen from \$10 million in 2010-2011 to \$108 million this year (the average legal cost per case⁽²⁾ from \$20,000 in 2010-2011 to \$30,000 at present);

(2) Including fees paid to the duty lawyer and manpower expenditure for court liaison officers who provide legal executive support to duty lawyers, but excluding the DLS's operating cost, management staff, and interpretation and translation costs.

-
- Humanitarian assistance: provided by the Social Welfare Department through a non-governmental organization, the expenditure has risen from \$151 million in 2010-2011 to \$329 million this year; and
 - Manpower for screening claims: the manpower expenditure under the ImmD, TCAB and the Department of Justice has risen from \$126 million in 2010-2011 to \$207 million this year.
- (4) According to figures provided by DLS, there are now about 440 lawyers who have received relevant training on the roster to provide legal assistance to claimants. Since December 2009 when the relevant scheme commenced operation, the number of duty lawyers handling torture/non-refoulement claims each year ranges from 200 to 400, that is, each duty lawyer handled around three to seven cases per year. The most cases handled by a duty lawyer in a given year is 26.
- (5) Procedures of USM follow the statutory mechanism for torture claims which was formulated in accordance with previous court rulings and should meet the high standards of fairness required by law. Since commencement of USM, the Government has been studying procedures and experiences in other jurisdictions with a view to improving our screening procedures, expediting the screening process, and strengthening our enforcement action against illegal immigrants within the existing legal framework. Details are as follows:
- Expediting the screening process: The time provided to claimants under USM is longer than that in other common law jurisdictions. For example, in Canada, Australia and New Zealand, claimants must submit a completed claim form when they lodge a claim. In Hong Kong, claimants currently have 49 days to complete a claim form (including 28 days under the statutory mechanism, and an additional 21 days given to claimants as an administrative arrangement in response to DLS' strong request when USM commenced). The

Government will review in due course whether this administrative arrangement shall cease in order to expedite the screening process.

Also, the Government has started reviewing the screening procedures in the light of operational experience immediately after commencement of USM in March 2014. In July 2015, the Government briefed the Panel on Security of this Council on a number of administrative measures which can be promulgated without amending the present legislation, including advancing scheduling of screening interviews and providing screening bundle to claimants to save them from having to lodge a data access request. We sought an early implementation of these measures to expedite the screening of claims (it is estimated that the time required to process a claim can be reduced from 25 weeks to 15 weeks). Although some stakeholders are still maintaining a different view on these measures, we will continue to liaise with them and explain the importance of commencing these measures to expedite screening, with a view to securing the co-operation of relevant stakeholders and commencing these measures to expedite screening as soon as possible.

- Publicly-funded legal assistance: We note that other common law jurisdictions, including the United Kingdom, Australia, New Zealand, and Canada, have in place a cap for fees for similar legal assistance (ranging from 13 to 23 hours⁽³⁾, or, having regard to the local legal costs over there, an equivalent of HKD\$3,000 to \$15,000⁽⁴⁾). There are also merits tests. At present, DLS does not have such a cap in place, and claimants are not subject to merits test prior to appeal. Each claimant receives 57 hours of legal assistance on average, costing around \$30,000 per claim. We have conveyed the above findings to DLS and requested its financial management strengthened to ensure the proper use of public funds. If

(3) Excluding the actual hours for attending screening interviews.

(4) Already including the cost for the lawyer to hire legal executive support as needed.

legal expenditure under the Scheme continues to rise at current rate, the Government will consider introducing further administrative or statutory measures to control its growth as required, including the capping of legal expenditure.

- Intercepting illegal immigrants at source: In recent months, the Government has had multiple meetings with the Consul General (CG) of India in Hong Kong to express our profound concern against Indian agencies allegedly arranging Indian nationals to enter Hong Kong for unlawful employment. We pointed out to the CG that such activities may involve a number of serious criminal offences and requested the Indian Government to render all possible assistance in combating such crimes. The Government also proposed visits to India by law-enforcement agencies (LEAs) to follow up with local enforcement agencies over there. Other than India, we will soon be in contact with the local Consulates of such countries as Vietnam and Pakistan to discuss how to combat their nationals smuggling into or overstaying in Hong Kong, as well as those syndicates which arrange such smuggling activities. LEAs will not acquiesce to any criminal activities; stringent enforcement action will be taken against them.

- Visa policy: Hong Kong has always adopted a liberal visa regime to facilitate business and tourism. However, the Government will also review our visa policy from time to time and make necessary adjustments so as to ensure that, while facilitating travel convenience for genuine visitors, the policy is not subject to abuse by those with a dubious purpose. The visa-free arrangement of specific countries is also subject to review and adjustments from time to time having regard to the prevailing circumstances in order to strike a balance between facilitating genuine visitors and maintaining effective immigration control.

Figures on non-refoulement claims

Claims made and handled since commencement of the enhanced screening mechanism in December 2009 to end September 2015 are tabulated below:

<i>Year</i>	<i>Claims made</i>	<i>Claims determined</i>	<i>Claims withdrawn or no further action can be taken</i>	<i>Pending claims (at year end)</i>
end 2009 (commencement of the enhanced administrative mechanism)				6 340
2010 and 2011	3 241	1 146	1 988	6 447
2012	1 174	1 575	1 154	4 892
2013	491	1 813	778	2 792
2014 (January and February)	19	221	89	2 501
From end 2009 to commencement of the USM (sub-total)	4 925	4 755 ⁽¹⁾	4 009	
March 2014 (commencement of the USM)				
(i) Torture claims pending ⁽²⁾				2 501
(ii) Non-refoulement claims lodged by persons whose torture claim had been rejected or withdrawn ⁽³⁾				2 962
(iii) Non-refoulement claims lodged on applicable grounds other than torture ⁽³⁾				1 236
Sub-total				6 699

<i>Year</i>	<i>Claims made</i>	<i>Claims determined</i>	<i>Claims withdrawn or no further action can be taken</i>	<i>Pending claims (at year end)</i>
2014 (March to December) (after commencement of the USM) Non-refoulement claims	4 634	826	889	9 618
2015 (January to September)	3 637	1 776	1 029	10 450
From commencement of the USM to September 2015 (Sub-total)	8 271 ⁽⁴⁾	2 602 ⁽⁵⁾	1 918	

Notes:

- (1) Since the commencement of the enhanced administrative mechanism (at end 2009) to before the commencement of the USM (end of February 2014), 4 755 torture claims have been determined, out of which 24 were substantiated (including five substantiated by the Torture Claims Appeal Board (TCAB) on appeal). As at end of September 2015, amongst the rejected claimants, 1 839 persons had left Hong Kong, 2 658 had lodged a non-refoulement claim under the USM on other grounds and 234 remained in Hong Kong for other reasons (for example, imprisoned, pending prosecution, lodged a judicial review, and so on).
- (2) At the commencement of the USM (March 2014), there were 2 501 pending torture claims, which have become non-refoulement claims under the applicable transitional arrangements.
- (3) These non-refoulement claims can be screened only after the commencement of the USM.
- (4) Between the commencement of the USM in March 2014 and September 2015, 8 271 non-refoulement claims were made to the ImmD, including 1 400 claims lodged by persons whose torture claim had been rejected or withdrawn (or those who had previously lodged an asylum claim with the UNHCR).
- (5) Between the commencement of the USM in March 2014 and September 2015, 2 602 non-refoulement claims have been determined, out of which 12 are substantiated (including two substantiated by the TCAB on appeal). As at end of September 2015, amongst the rejected claimants, 440 persons have departed or are pending removal arrangements, 1 897 have lodged an appeal to the TCAB, 253 are remaining in Hong Kong for other reasons (for example, imprisoned, pending prosecution, lodged a judicial review, and so on).

Expenditure for screening non-refoulement claims

The expenditures arising from the screening of torture/non-refoulement claims since 2010-2011 are tabulated as follows:

<i>Financial Year</i>	<i>Screening of Claims and Handling of Appeals/Petitions (\$million)</i>	<i>Publicly-funded Legal Assistance (\$million)</i>	<i>Humanitarian Assistance (\$million)</i>	<i>Total (\$million)</i>
2010-2011	126	10	151	287
2011-2012	135	37	143	315
2012-2013	144	58	191	393
2013-2014	151	76	204	431
2014-2015	190	97	254	541
2015-2016 (estimate)	207	108	329	644

Funds Outside Accounts of Government

13. **MR JAMES TIEN** (in Chinese): *President, it is learnt that some of the funds established by the Government and with government injections are currently segregated from the government accounts, and the revenue and expenditure of these funds as well as their net assets are not included in the annual accounts and fiscal reserves of the Government. In his reply to a question I raised on the Estimates of Expenditure 2015-2016, the Secretary for Financial Services and the Treasury said that as such funds were managed and controlled by individual bureaux, government departments or relevant organizations on their own, the Financial Services and the Treasury Bureau (FSTB) did not keep past or up-to-date financial information of the funds. In this connection, will the Government inform this Council:*

- (1) *of the names of the aforesaid funds (with a breakdown by the bureau, government department or relevant organization to which the funds belong);*

- (2) *whether FSTB knows the total present asset values of such funds; if FSTB does, of the details;*
- (3) *of FSTB's justifications for not requiring the bureaux, government departments and relevant organizations responsible for managing such funds to report on the funds' financial situations;*
- (4) *whether any of the funds ceased operation in the past decade; if there were, of the names of such funds (with a breakdown by the year in which the operation ceased, the balance, and the way by which the fund balance was disposed of);*
- (5) *whether the financial situations of such funds are subject to monitoring by government departments other than those to which the funds belong (e.g. regular auditing by the Audit Commission); if so, of the details; if not, the reasons for that; and*
- (6) *whether measures are in place to ensure that such funds achieves the effectiveness objectives set at the time of establishment, and how it assesses the need for the continuous operation of the funds?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, my consolidated reply to your question is as follows:

The major government funds (established mainly with public moneys) for specific purposes and which are directly administered by Government, as set out in Government's accrual-based consolidated financial statements for the year ended 31 March 2014, are as follows:

<i>Funds</i>	<i>Responsible bureaux/departments</i>
AIDS Trust Fund	Department of Health
Beat Drugs Fund Association	Security Bureau
Community Care Fund	Home Affairs Bureau
Consumer Legal Action Fund	Commerce and Economic Development Bureau (Commerce, Industry and Tourism Branch)

<i>Funds</i>	<i>Responsible bureaux/departments</i>
Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers*	Education Bureau
Education Development Fund	Education Bureau
Elder Academy Development Foundation	Labour and Welfare Bureau
Elite Athletes Development Fund	Home Affairs Bureau
Emergency Relief Fund	Social Welfare Department
Environment and Conservation Fund	Environmental Protection Department
Health Care and Promotion Fund	Food and Health Bureau (Health Branch)
Health Services Research Fund	Food and Health Bureau (Health Branch)
HKSAR Government Scholarship Fund	Education Bureau
Hong Kong Paralympians Fund	Social Welfare Department
Language Fund	Education Bureau
New Technology Training Fund	Labour and Welfare Bureau
Pneumoconiosis Ex Gratia Fund	Labour Department
Quality Education Fund	Education Bureau
Queen Elizabeth Foundation for the Mentally Handicapped	Labour and Welfare Bureau
Research Endowment Fund	Education Bureau
Self-financing Post-secondary Education Fund	Education Bureau
Sir David Trench Fund for Recreation	Home Affairs Bureau
Supplementary Legal Aid Fund	Legal Aid Department
Trust Fund for Severe Acute Respiratory Syndrome	Social Welfare Department
Trust Fund in Support of Reconstruction in the Sichuan Earthquake Stricken Areas	Home Affairs Bureau

Note:

* The fund has ceased to operate after the 2012-2013 school year (that is, from 1 September 2013).

According to the Accrual-based Consolidated Financial Statements for the year ended 31 March 2014, the total amount of investments made by the above funds was in the region of \$84 billion.

In the past 10 years, the following two funds had ceased operation:

<i>Name of funds</i>	<i>Year of cessation</i>	<i>Fund balance upon cessation</i>	<i>Disposal of fund balance</i>
Early Retirement Ex-gratia Payment Fund for Aided Primary School Teachers	2008 (after 2007-2008 school year)	About \$8 million	Returned to General Revenue
Early Retirement Ex-gratia Payment Fund for Aided Secondary School Teachers	2013 (after 2012-2013 school year)	About \$90 million	Returned to General Revenue

According to the Public Finance Ordinance (Cap. 2), Controlling Officers are responsible and accountable for all expenditure from any head or subhead in the approved estimates under their remit, as well as for all public moneys and government property in respect of the department or service for which they are responsible. The public moneys include government funds set up for specific purposes.

The Financial Services and the Treasury Bureau issued in February 2015 a new set of administrative guidelines on the establishment and management of purpose-specific funding schemes, whether housed within or outside the government accounts. In general terms, Controlling Officers are reminded to observe the need to strive to achieve maximum value for money, exercise prudence in the disbursement of government fund, preserve a level playing field in government procurement, serve the public with integrity and in a transparent and publicly accountable manner, and observe due diligence and avoid conflict of interest. Specifically, they are reminded to critically review the need to set up a new fund, seek proper authorization for earmarking funding, set up an effective governance structure, formulate and keep updated strategic plans on the programmes/activities for achieving the purposes of the fund, and develop and report on appropriate performance measures for the fund, and so on. Controlling Officers are advised to invest funds not immediately required, and to make reference to the Fund Management Guide issued by the Treasury in January 2014 (as may be updated). The Guide covers the setting of investment objectives, formulating investment strategies, investment planning, investment operations and controls, monitoring, investment performance reporting and financial reporting. The governing board, investment committee (or the Controlling Officer as the case may be) should regularly review investment strategies and closely monitor investment performance.

Controlling Officers are ultimately accountable for the proper use of government funds under their control. They should decide on the degree of control for individual funds and ensure that it is reasonable and proportionate to the purpose, nature and scale of the fund. They are required to put in place appropriate measures to monitor the performance of respective government funds against their intended objectives and to assess the need for their continued operation.

Development of Film Industry

14. **MR WONG TING-KWONG** (in Chinese): *President, at the end of last month, Warner Bros. Entertainment Inc. and China Media Capital announced the formation of a joint venture of US\$1 billion, to be headquartered in Hong Kong, to develop and produce films for distribution around the world. In this connection, will the Government inform this Council:*

- (1) *whether it has assessed the benefits (including how the development of the film industry will be promoted) that can be brought about by the aforesaid investment project to the film industry of Hong Kong, as well as whether the project can facilitate the development of the mainland film industry and its exchange of talents, with a view to creating more employment opportunities for local practitioners; if it has assessed, of the outcome;*
- (2) *whether it will take this opportunity to step up its efforts to promote the film industry of Hong Kong; if it will, of the details; if not, the reasons for that; and*
- (3) *whether it has assessed if there are sufficient film-related talents in Hong Kong at present to cope with the demand arising from the future development of the film industry; whether the authorities will, as a complementary measure, adjust the policies on and measures for the training of such talents; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, my reply to Mr WONG Ting-kwong's question is as follows:

- (1) The decision made by the joint venture of Warner Bros. Entertainment Inc. and China Media Capital to set up its headquarters in Hong Kong highlights the international flavour of the creative industries of Hong Kong. The film industry of Hong Kong has accumulated experience in international marketing and distribution as well as market development over the years. In recent years, most of the Hong Kong-Mainland co-produced films and some Mainland films have been sold to overseas distributors through Hong Kong companies. The local film industry has in recent years actively participated in the development of the Mainland film market, and established an extensive network of business connections. These advantages will facilitate the development of Hong Kong into a bridgehead for tapping the global market for Chinese films and enable Hong Kong to give play to its role as a "super-connector" between the Mainland and the rest of the world.

In overall terms, the setting up of the headquarters in Hong Kong by the above-mentioned joint venture to develop and produce films for global distribution will promote the further development of the local film industry. In particular, this will drive economic activities carried out in Hong Kong in relation to international marketing and distribution of films, and facilitate exchanges between Hong Kong and other places and the Mainland in film production techniques, publicity and distribution. Moreover, subject to the joint venture's future operation strategies and whether it will produce films in Hong Kong, there may be an increase in local filmmaking and post-production activities, which will bring about new employment opportunities.

- (2) The Government has all along supported the development of the film industry of Hong Kong. Before Warner Bros. Entertainment Inc. and China Media Capital announced the decision to set up the headquarters of their joint venture in Hong Kong, the Chief Executive had in his 2015 Policy Address announced that the Government would further promote the development of Hong Kong's film industry through a four-pronged strategy. The initiatives include: encouraging more local film production;

nurturing production talent; promoting film appreciation among students and young people to build up audiences; and showcasing and promoting the brand of "Hong Kong Films" in the Mainland, Taiwan and overseas markets, facilitating the participation of local films in international film festivals, and helping drive Hong Kong's development as a film financing platform in Asia.

To tie in with this strategy, the Government injected additional funding of \$200 million into the Film Development Fund (FDF) in end May this year to support the further development of the local film industry. We have also enhanced the mechanism for financing small-to-medium film productions under the Film Production Financing Scheme (FPFS) under the FDF by raising the upper limit of the production budget of a film project from \$15 million to \$25 million. Moreover, a new Film Production Grant Scheme (FPGS) will shortly be introduced under the FDF to subsidize small-budget film productions with production budget not exceeding \$10 million per film. The Government will provide each approved film with a grant up to 20% of the approved production budget or actual production cost, whichever is the lower, subject to a cap of \$2 million.

The FDF will also continue to support initiatives which promote the Hong Kong film industry, including provision of subsidies for Hong Kong films to participate in international film festivals and supporting the film industry to host or participate in various publicity and promotional activities (for example, Entertainment Expo), with a view to helping the industry expand its markets outside Hong Kong.

- (3) Nurturing talent is one of the strategies adopted by the Government to promote the development of local film industry. With a drop in local film production activities in recent years, there have been fewer performance opportunities for local film talent and fewer opportunities for other practitioners to learn and master the skills. Given the relatively low level of film production activities carried out in Hong Kong, the trade has expressed a certain degree of difficulties in recruiting new blood. This has given rise to a succession gap.

In order to create more performance and production opportunities for budding talent in performing arts and behind-the-scene practitioners respectively, the Government provides small-to-medium film productions with financing or funding support through the FPFS and FPGS with a view to encouraging more commercial investment in filmmaking and related economic activities. The First Feature Film Initiative (FFFI) under the FDF seeks to address the succession gap of the local film industry by identifying and grooming a new generation of film talent. The FFFI identifies through a competition new filmmakers from among tertiary students and practitioners of the film industry who have no previous experience in directing commercial films, and provides funding support to the winning teams for producing their first feature films in a commercial mode.

Moreover, the Government will continue to provide funding support to film-related projects that are conducive to nurturing production talent. The FDF has previously sponsored training programmes for practitioners in various disciplines of film production, training programmes for projectionists on the use of digital projection systems, workshops for young people who wish to join the film industry, and so on.

As regards post-secondary education, the Education Bureau and the University Grants Committee have been encouraging various institutions to design and offer programmes in the light of the manpower demand of the industry. The Commerce and Economic Development Bureau also from time to time liaises with the institutions concerned to understand the employment and articulation situations of the graduates of creative industries-related programmes, and to reflect to the institutions the views of the trade on the curricula.

Nursing Manpower in Public Hospitals

15. **PROF JOSEPH LEE** (in Chinese): *President, it is learnt that quite a number of nurses working in public hospitals are close to their retirement age, which has aroused concern about the shortage of nursing staff. In this connection, will the Government inform this Council whether it knows:*

- (1) *among the nurses currently working in public hospitals, the number and percentage of those who will reach the retirement age in the coming five years, with a breakdown of the estimated number of nurses retiring each year by their rank and by the medical institution (public hospital/outpatient clinic) and specialty to which they belong;*
- (2) *the estimated respective numbers of vacancies of various types of nursing posts under the Hospital Authority (HA) (i.e. enrolled nurses (general), enrolled nurses (psychiatric), registered nurses (general) and registered nurses (psychiatric)) in the coming five years, with a breakdown by rank and by the medical institution and specialty to which such posts belong;*
- (3) *the estimated respective numbers of graduates from various types of nursing programmes in each of the coming five years, with a breakdown by course provider; whether HA has assessed if the annual number of graduates newly recruited is sufficient to fill the vacancies concerned; if HA has and the outcome is in the negative, how HA will resolve that problem;*
- (4) *whether HA has considered improving the work arrangement, such as exempting nurses over the age of 55 from night shift duties, so as to retain talents; if so, whether HA has assessed the additional manpower it will need to recruit for the implementation of such a measure; if not, of the reasons for that; and*
- (5) *given that HA is implementing the continuous night shift scheme to provide incentive allowance for nurses to undertake continuous night shift duties so as to reduce the frequency of their night duties, whether HA has assessed if such a measure is conducive to retaining talents; if HA has, of the details?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, my reply to the various parts of the question raised by Prof Joseph LEE on the manpower of public hospitals is as follows:

- (1) From 2015-2016 to 2019-2020, a total of 1 051 full-time nurses in the Hospital Authority (HA) will reach the retirement age of 60, representing about 4.4% of the total number of nurses. The distribution of the above-mentioned retiring nurses by cluster is set out in the table below⁽¹⁾:

Cluster	Total number of nurses (as at 31 March 2015) ⁽²⁾	Total number of retiring nurses ⁽³⁾	Percentage of retiring nurses out of the total number of nurses	Number of retiring nurses each year				
				2015-2016	2016-2017	2017-2018	2018-2019	2019-2020
Hong Kong East	2 517	122	4.8%	26	12	14	30	40
Hong Kong West	2 679	157	5.9%	28	20	30	38	41
Kowloon Central	3 275	148	4.5%	13	31	28	35	41
Kowloon East	2 613	80	3.1%	13	15	15	20	17
Kowloon West	5 608	305	5.4%	39	42	57	91	76
New Territories East	3 897	122	3.1%	14	28	24	27	29
New Territories West	3 163	117	3.7%	17	16	17	29	38
Total	23 751	1 051	4.4%	150	164	185	270	282

Notes:

- (2) The number of nurses is computed on full-time equivalent basis, including permanent, contract and temporary staff in the workforce of the HA. Figures may not add up to the total due to rounding.
- (3) The number of retiring nurses is calculated on headcount basis including full-time permanent and full-time contract staff while excluding part-time and temporary staff.
- (2) Nursing vacancies mainly arise from natural wastages and the creation of additional posts for meeting new service demand. From 2012-2013 to 2014-2015, the overall⁽¹⁾ turnover rate of nurses was maintained at 4.7% to 4.9%. The average turnover rates of general nurses and psychiatric nurses were about 5% and 2.8% respectively. The HA projected that there would be about 950 to 1 000 general nurse vacancies and about 70 to 80 psychiatric nurse vacancies generated by staff turnover in 2015-2016.

(1) The HA does not maintain a breakdown of the number of retiring nurses by their hospitals/clinics, ranks or specialties.

As regards the additional nursing manpower required for delivering new services each year, the manpower requirements of the HA are projected by taking into account the estimated staff turnover, market supply, manpower requirement for new services and financial position. After formulating the manpower requirements according to its annual plan, the HA will make adjustments with regard to the supply and demand of nurses. Hence, figures on the specific manpower requirements cannot be provided at the moment. On the operational front, the HA will deploy nursing staff flexibly in the provision of existing and new healthcare services. As such, it cannot provide the estimated number of nursing vacancies in respect of individual healthcare service programme or specialty.

- (3) The number of training places of pre-service nursing programmes for the five academic years from 2015-2016 to 2019-2020 is set out in Annex.

There is still a general shortage of healthcare manpower currently. The HA will continue to implement various measures through different means to increase nursing manpower and retain staff, with a view to relieving the manpower pressure. The measures include recruiting additional staff, improving promotion prospects, upgrading the proficiency of nursing graduates, providing more training opportunities, increasing the training subsidy provided for registered nurses, supporting the career development of enrolled nurses, enhancing the continuous night shift scheme and improving work arrangements. The HA will also update its projection of service demand and manpower requirements every two or three years.

There will be 367, 370, 395 and 400 nursing graduates from placement training in the respective years from 2015-2016 to 2018-2019. It is expected that the overall nursing manpower situation will be improved then. The HA will continue to monitor closely the manpower situation of nurses and make suitable arrangements in manpower planning and deployment to cope with service needs.

(4) and (5)

The HA at this stage has no plan to exempt nurses aged over 55 from night shift duties. However, it has implemented the continuous night shift scheme which helps to reduce the frequency of night shifts. Nurses aged over 55 can benefit from the scheme. The continuous night shift scheme was implemented in May 1994 to improve the shift and rest periods of nurses. Since then, continuous efforts have been made to improve the night shift arrangement and the rate of allowance. The rate of allowance was further increased in 2015 to provide better compensation for nurses who undertake continuous night shift duties. Our aim is to reduce the frequency of night shift duties of nurses to not more than once in every seven days as far as practicable. In 2014-2015, there were 1 897 nurses participating in the scheme. The HA will continue to consider different feasible options to improve the working environment and benefits of nurses.

Annex

A breakdown of the training places of pre-service nursing programmes accredited by the Nursing Council of Hong Kong by stream and training school for the five academic years from 2015-2016 to 2019-2020 is set out in the following table:

Nurse Training Schools	Training Places by Academic Year																			
	2015-2016				2016-2017				2017-2018				2018-2019				2019-2020			
	Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes	
General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	
Hong Kong Baptist Hospital	-	-	65	-	-	-	64	-	-	-	64	-	-	-	64	-	-	-	64	-
Hong Kong Sanatorium & Hospital	-	-	108	-	-	-	140	-	-	-	140	-	-	-	140	-	-	-	140	-
St. Teresa's Hospital	-	-	66	-	-	-	66	-	-	-	80	-	-	-	80	-	-	-	80	-

Nurse Training Schools	Training Places by Academic Year																			
	2015-2016				2016-2017				2017-2018				2018-2019				2019-2020			
	Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes		Pre-registration Nursing Programmes		Pre-enrolment Nursing Programmes	
	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric	General	Psychiatric
Union Hospital	-	-	40	-	-	-	40	-	-	-	40	-	-	-	40	-	-	-	40	-
Tung Wah College	304	-	-	-	325	-	150	-	325	-	150	-	325	-	150	-	325	-	150	-
HKU School of Professional and Continuing Education	34	-	-	-	32	-	-	-	32	-	-	-	32	-	-	-	32	-	-	-
HKU Space Community College	-	-	40	-	-	-	40	-	-	-	40	-	-	-	40	-	-	-	40	-
Caritas Institute of Higher Education	120	-	-	-	120	-	-	-	120	-	-	-	120	-	-	-	120	-	-	-
The Open University of Hong Kong	493	174	155	85	460	185	155	85	460	185	155	85	460	185	155	85	460	185	155	85
The Chinese University of Hong Kong ⁽¹⁾	352	-	-	-	75	-	-	-	75	-	-	-	75	-	-	-	75	-	-	-
The Hong Kong Polytechnic University ⁽²⁾	253	70	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
The University of Hong Kong ⁽³⁾	215	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
The HA Nurse Training Schools	300	-	100	-	300	-	100	-	300	-	100	-	300	-	100	-	300	-	100	-

Notes:

- Figures thereby inserted may include student intakes both at the first-year and senior-year levels in 2015-2016, including both University Grants Committee (UGC)-funded programmes and self-financing programmes. The UGC is now working with the institutions on the academic planning for the 2016-2017 to 2018-2019 triennium, and hence the number of UGC-funded nurse training places after 2015-2016 is not yet available. Figures from 2016-2017 onwards refer to self-financed Master of Nursing Sciences (pre-registration) Programme.
- Figures thereby inserted may include student intakes both at the first-year and senior-year levels in 2015-2016, including both UGC-funded programmes and self-financing programmes. The UGC is now working with the institutions on the academic planning for the 2016-2017 to 2018-2019 triennium, and hence the number of UGC-funded nurse training places after 2015-2016 is not yet available. For the self-financed Master of Nursing Programme, the arrangements of which for the academic years from 2016-2017 onwards have yet to be finalized.
- Figures thereby inserted may include student intakes both at the first-year and senior-year levels in 2015-2016. The UGC is now working with the institutions on the academic planning for the 2016-2017 to 2018-2019 triennium, and hence the number of UGC-funded nurse training places after 2015-2016 is not yet available.

Safety of Drinking Water

16. **DR LEUNG KA-LAU** (in Chinese): *President, it has been reported that in last month, the drinking water samples taken from several drinking fountains in The Prince Philip Dental Hospital were found to have a lead content exceeding the provisional guideline value set out in the Guidelines for Drinking-water Quality published by the World Health Organization. Regarding the safety of drinking water, will the Government inform this Council:*

- (1) *whether it knows the progress and outcome of the investigation conducted by the Hospital Authority (HA) into the above incident, including the category and number of persons affected and the remedial measures taken by HA for the health of the affected persons;*
- (2) *given that the health of pregnant women and children is more likely to be affected by lead in drinking water, whether it knows if HA will deploy personnel to take water samples from the gynaecological and obstetric wards as well as the paediatric wards of public hospitals for lead testing (water sampling tests) so as to ensure the safety of the drinking water for patients' consumption; if HA will, of the details; if not, the reasons for that;*
- (3) *whether it knows if HA will deploy personnel to conduct water sampling tests for the nursing homes, medical rehabilitation centres and hospice centres under HA's purview so as to ensure the safety of the drinking water for patients' consumption; if HA will, of the details; if not, the reasons for that;*
- (4) *whether the Social Welfare Department will deploy personnel to various types of residential care homes for the elderly to conduct water sampling tests so as to ensure the safety of the drinking water for consumption by the long stayers there; if it will, of the details; if not, the reasons for that;*

- (5) *whether it knows if HA has conducted a comprehensive risk assessment for the Hong Kong Children's Hospital under construction in respect of the materials used, the methods of construction (including the use of prefabricated components), etc. for its water supply system so as to ensure the safety of drinking water upon the commissioning of the Hospital; if HA has conducted such an assessment, of the details; if not, the reasons for that; and*
- (6) *whether it knows if HA will deploy personnel to conduct water sampling tests for the staff quarters of public hospitals so as to ensure the safety of the drinking water for consumption by its staff?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, having consulted the Labour and Welfare Bureau, the Hospital Authority (HA) and the Architectural Services Department (ArchSD), our reply to the various parts of the question raised by Dr LEUNG Ka-lau about the safety of drinking water in public health institutions and residential care homes for the elderly (RCHEs) is set out below.

- (1) The drinking water samples from The Prince Philip Dental Hospital⁽¹⁾ (PPDH) that were suspected to have excessive lead content were all taken from the boiler tanks in staff pantries. These boiler tanks are for use by hospital staff only and patients will not be affected. At present, PPDH has stopped using all boiler tanks, and has provided electric kettles for its staff instead. In order to ensure the quality and safety of drinking water, PPDH will follow the guidelines provided by the Water Supplies Department (WSD) in taking water samples from the taps inside the hospital for lead content test. The Food and Health Bureau will closely monitor the test results and take suitable follow-up actions.

(1) PPDH is a teaching hospital established under The Prince Philip Dental Hospital Ordinance (Cap. 1081) to provide facilities for the training of dentists and other persons in professions supplementary to dentistry. It is not a hospital under the management of the HA.

(2), (3) and (6)

Toxicology experts and related specialists of the HA have earlier carried out risk assessment on the safety of drinking water in hospitals and recommended that at this stage water tests should be conducted in paediatric wards with inpatients aged below six. Over the past few weeks, the HA has collected water samples from the paediatric wards and milk kitchens of Wai Yee Building of Caritas Medical Centre, Duchess of Kent Children's Hospital at Sandy Bay, United Christian Hospital, Princess Margaret Hospital, Yan Chai Hospital and Queen Elizabeth Hospital for testing. Upon testing, the lead levels in all samples were confirmed to be within the acceptable limit set out in the guidelines of the World Health Organization. The HA will continue to arrange water tests in other hospitals in accordance with the recommendations of toxicology experts and related specialists.

At the same time, the HA has purchased sufficient number of water filters. Once there are water samples that are found to contain excessive lead, the hospital concerned will immediately install water filters to ensure the safety of drinking water.

On the other hand, the HA will closely monitor the results of the abovementioned tests and take them as reference for further risk assessment on the water supply facilities at other clinical areas and the workplaces or rest areas⁽²⁾ of staff in the hospitals. The HA will work out appropriate measures having regard to the risk assessment to ensure the safety of drinking water.

(4) Having regard to the views of professional departments, the Government considers that priority should be given to the more easily affected group, that is, children aged below six. In this connection, the Government accords priority to conduct water sampling tests to welfare units serving children who are aged below

(2) The HA at present does not provide staff quarters for staff to reside in. The HA only provides call rooms and overnight rooms for doctors on-call and nurses between shifts to take rest.

six and have to stay in the units for long hours and consume drinking water in the units. On 28 August and 30 September, the Social Welfare Department (SWD) provided all welfare units (including RCHEs) with the health advice about reducing lead exposure from the Centre for Health Protection of the Department of Health and the advice on the installation and use of wall-mounted kettles provided by the WSD respectively. Such advice has been uploaded to the SWD's website. The SWD has, via the Government Logistics Department, also assisted subvented welfare units (including RCHEs) in ordering water filters that reduce lead content from suppliers direct through bulk purchase.

- (5) The construction works of the water supply system of the Hong Kong Children's Hospital has not yet started. The ArchSD will strictly monitor the materials used and the construction process of all works items to ensure their compliance with the requirements of the WSD. To ensure the quality of drinking water, the ArchSD will clean and sterilize the water supply system and test water samples according to the requirements in the WSD Circular Letter before handing over the Hong Kong Children's Hospital to HA. Besides, the ArchSD will study the recommendations of the Task Force on Excessive Lead in Drinking Water of the Government and devise relevant procedures to ensure the quality of drinking water.

Impact of Delay in Handover of Sites on West Kowloon Cultural District Project

17. **MR MA FUNG-KWOK** (in Chinese): *President, at present, the MTR Corporation Limited (MTRCL) has borrowed some of the sites of the West Kowloon Cultural District (WKCD) project for use as the works sites for the project to construct the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL), including the works sites for the XRL West Kowloon Terminus and the temporary barging facility. Due to the delay of the XRL project, the handover of some of these works sites to the West Kowloon Cultural District Authority (WKCDA) may have to be deferred. In this connection, will the Government inform this Council:*

- (1) *of the respective (i) areas, (ii) locations, (iii) originally scheduled dates of handover to WKCDA, and (iv) actual handover dates (if handed over already) or expected handover dates (if not yet handed over) of the various works sites;*
- (2) *of the actions taken, upon learning that the handover of the works sites to WKCDA would need to be deferred, by the authorities to urge MTRCL to hand over those sites expeditiously;*
- (3) *of the impact of the deferred handover of the works sites to WKCDA on the development of WKCD (including its construction works, construction costs, etc.), according to the authorities' latest estimation; the measures to be taken by the authorities to alleviate the impact; whether they have conducted studies to find out if the extra expenditure caused to the WKCD construction works by the deferred handover of the works sites should be borne by MTRCL, the Government or WKCDA, and of the justifications for the conclusion concerned; and*
- (4) *as it has been reported that the idea of suspension of work is brewing among a number of XRL project contractors, whether the authorities have formulated contingency plans to alleviate the possible impact on the WKCD project should such a situation occur; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) is about 26 km long. The Hong Kong Special Administrative Region Government (the Government) has entrusted the MTR Corporation Limited (MTRCL) with the construction and commissioning of the Hong Kong section of the XRL. The construction works of the XRL commenced in January 2010. The construction of the West Kowloon Cultural District (WKCD) had not yet commenced at that juncture. With full communication and co-ordination between the Government and the West Kowloon Cultural District Authority (WKCDA), the Hong Kong section of the XRL would use part of WKCD land as temporary works areas. Since a part of the XRL Terminus is located at the

underground of WKCD, the construction of the Hong Kong section of the XRL will have interfaces with that of the WKCD. At present, most of the land within Zones 2A, 2B and 2C for construction of the WKCD integrated basement are temporarily occupied by the MTRCL as works area for the XRL project for construction of West Kowloon Terminus (WKT) of the XRL. After the completion of relevant construction works for the XRL project, MTRCL will hand over the works areas to WKCD in phases for construction of WKCD integrated basement and other facilities. The zoning plan of the WKCD integrated basement is at the Annex.

My reply to the various parts of Mr MA Fung-kwok's question is as follows:

- (1) The whole WKCD is about 40.9 hectares. For constructing the WKT, there is a need to use land adjacent to the WKT to accommodate plant, materials and associated construction facilities. Hence, a total of about 15.7 hectares in the WKCD (which accounts for about 39% of the total area of the WKCD) have been allocated for use as temporary works areas for the construction of the Hong Kong section of the XRL. The temporary works areas are located within Zones 1A, 2A, 2B and 2C of the WKCD integrated basement, with some areas within Zones 3A and 3B of the WKCD integrated basement and the Park.

At present, MTRCL has handed over about 9% or about 3.5 hectares (including most part of Zone 1A and all the occupied areas of Zone 3A of the integrated basement and the Park sites) of the total area of the WKCD to facilitate the WKCD's construction of Xiqu Centre, Lyric Theatre Complex and the Park. As regards the remaining 30% or about 12.2 hectares of the WKCD, they are mainly located within Zones 2A, 2B and 2C of the integrated basement. The Government has initially agreed with the WKCD the timetable for handing over around 2% of the total area of WKCD. As for the remaining 28% of the total area of WKCD, about half of it is located within Zone 2A of the integrated basement. The timetable for handover of this area will depend on the completion date for the construction of the WKT and the WKCD enabling works for the

WKCD topside developments in this zone. As for another half of the land located within Zones 2B and 2C, they are mainly used as temporary supporting works areas for the XRL project. Subject to the land sale programme of hotel, office and residential development designated for Zone 2B, and the development plan for Great Theatre, Musical Theatre, and Music Centre, and so on, in Zone 2C, the Government is prepared to work out a feasible timetable for handover of the sites flexibly according to the development need of WKCD to tie in with its implementation in the two zones. The Government will discuss in detail with the MTRCL, including assessing the timetable for handing over the areas within Zone 2A of the integrated basement which accounts for about 14% of the total area, in order to minimize the impact on the WKCD project.

- (2) Since the MTRCL announced on 30 June 2015 further delay of the XRL project to the third quarter of 2018, including a six-month contingency period, the Highways Department (HyD) has, with the assistance of its monitoring and verification consultant, critically reviewed the revised Programme to Complete (PTC). Pending the results of the review, we will assess whether and to what extent the implementation timetable for Zones 2A, 2B and 2C of the WKCD integrated basement and the arts and cultural facilities thereon would be affected. In any case, the HyD and MTRCL will continue to co-ordinate with the WKCDA and implement feasible measures with a view to minimizing the impact on the WKCD project.
- (3) The Home Affairs Bureau and the WKCDA plan to implement the arts and cultural facilities in batches with current focus on the development of Xiqu Centre, M+, Artist Square Development Area and the Park (including Freespace and the Arts Pavilion). The XRL project will not have a significant impact on the Xiqu Centre, M+ and the Park. The construction of Xiqu Centre and M+ commenced in September 2013 and August 2014 respectively. Regarding the works area occupied by XRL's barging facilities in a small portion of Zone 3B of the integrated basement, the WKCDA has managed to maintain the target completion date of the Lyric Theatre Complex by around 2020, by incorporating the concerned foundation works into

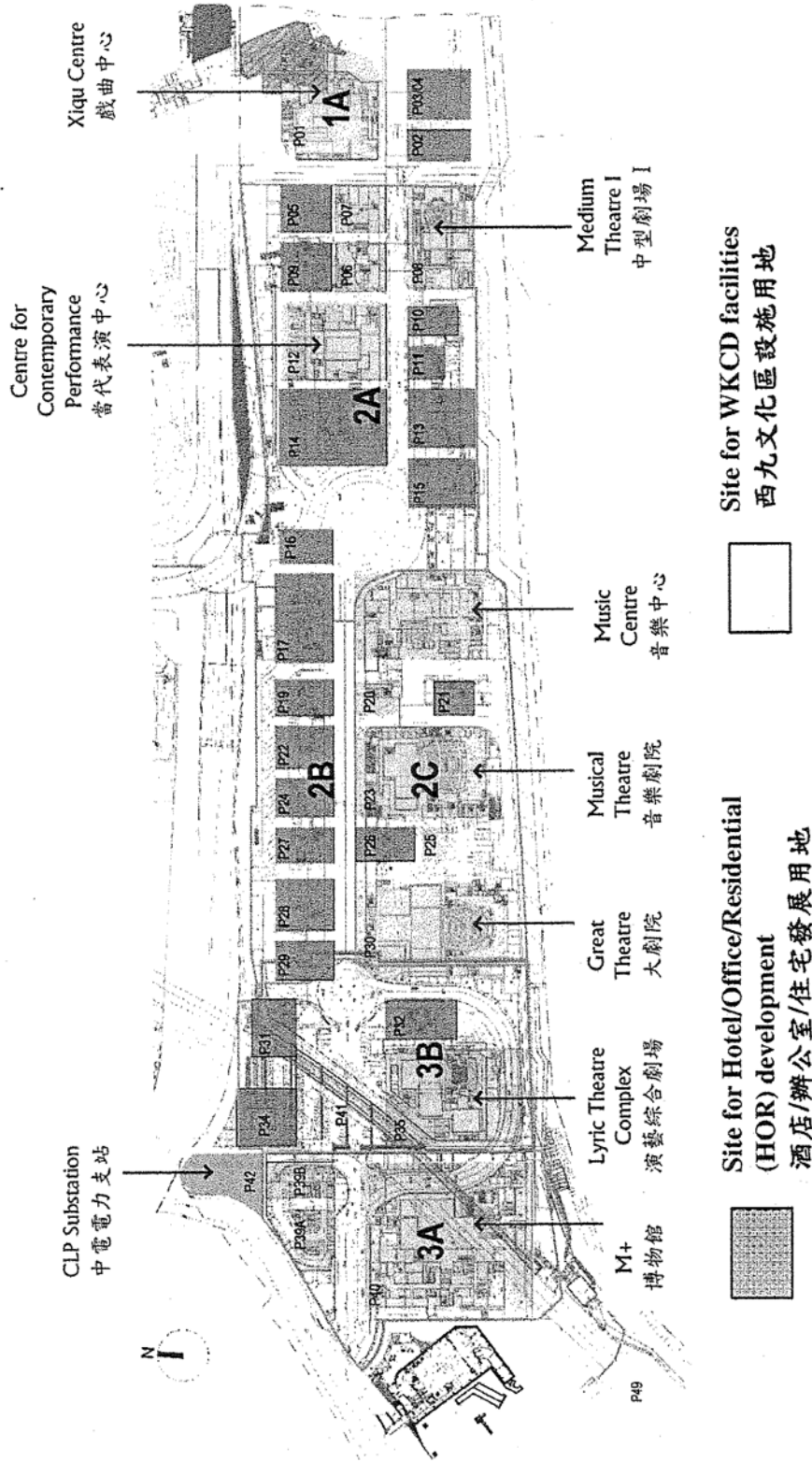
the main works contract for the topside development of the Complex to tie in with the scheduled handing over of the works area in question.

In addition, the Civil Engineering and Development Department will engage consultants to carry out the design and supervise the site investigation of essential basement structures and associated works for Zones 2A, 2B and 2C of the integrated basement. More reliable estimates of the project costs of the integrated basement and topside developments will only be available near the time of tendering after finalization of the designs and confirmation on the hand over dates of the works areas in Zones 2A, 2B and 2C of the integrated basement; given the various construction demands and macro-economic factors worldwide and in the region, the construction costs of the WKCD development would be subject to fluctuations in labour and material costs in the coming years.

There is no contractual agreement between the MTRCL and the WKCD on the handover dates of the above works areas. The concerned bureaux/departments have all along been in close communication and co-ordination with the MTRCL and the WKCD on the land matters in WKCD with a view to minimizing the impacts of the railway works on the construction programme and cost of the WKCD project.

- (4) The MTRCL has not submitted, in its capacity as the project manager of the XRL project, any report to the Transport and Housing Bureau on XRL project contractors planning to cease works. In our view, ceasing the works of the XRL project is absolutely not a proper and responsible decision. Cessation or even termination of the XRL project will have grave and profound repercussions, including a serious impact on the implementation schedule for sites relating to the WKCD. The Government will enhance the monitoring of the performance of MTRCL as the project manager so as to facilitate early completion and commissioning of the XRL project to minimize the impact on the WKCD project.

Zoning Plan of WKCD Integrated Basement 綜合地庫分區圖



備註 Notes:

1. The demarcation between the different zones is subject to study during the design stage of the integrated basement project. 發展分區分界有待綜合地庫詳細設計核實。
2. The sites for HOR developments also consist of retail/dining/entertainment facilities, other arts and cultural facilities, and parking facilities of WKCDA. 酒店/辦公室/住宅發展用地亦包括西九管理局的零售/餐飲/消閒設施、其他文化藝術設施及地庫泊車設施。

Law Enforcement on Sale of Drugs

18. **DR KWOK KA-KI** (in Chinese): *President, at present, only authorized sellers of poisons (ASPs) (commonly known as "pharmacies") are allowed to sell drugs which require doctors' prescriptions. It has been reported that some pharmacies are selling drugs, including the anti-cancer drug Herceptin and Sovaldi for the treatment of hepatitis C, to members of the public without doctors' prescriptions. These pharmacies sell these drugs at very low prices (e.g. around HK\$20,000 only for Sovaldi, which is sold at the price of HK\$650,000 in the United States), raising suspicion as to whether these drugs are fake. Regarding law enforcement by the authorities on the sale of drugs, will the Government inform this Council:*

- (1) *whether it has compiled statistics on the current number of shops which are not ASPs but with their Chinese names comprising the character "藥"; if it has, of the number; if not, the reasons for that;*
- (2) *of the respective numbers of inspections conducted by the authorities in the past five years on shops whose Chinese names comprise (i) the term "藥房", (ii) the term "藥行" and (iii) the character "藥" but not the terms "藥房" or "藥行", as well as the respective numbers of cases in which the persons concerned were prosecuted and convicted for contravention of the law, and among the convicted persons, the respective numbers of those who were (i) registered pharmacists and (ii) ASPs;*
- (3) *of the respective numbers of complaints or reports about the sale of fake or spurious drugs received by the authorities in the past five years, as well as the respective numbers of prosecutions and convictions in connection with them;*
- (4) *of the respective numbers of patients who fell sick and were admitted to hospitals for treatment in the past five years after taking (i) prescription drugs bought from pharmacies without doctors' prescriptions and (ii) drugs that were fake or spurious; and*
- (5) *whether it will review and amend the existing legislation to raise the penalties for selling prescription drugs without doctors' prescriptions and for selling fake or spurious drugs; whether it will*

require that only shops which are ASPs are allowed to use Chinese names comprising the character "藥", so as to avoid causing confusion to members of the public?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the regulation of "pharmaceutical products" and "medicine" is governed by the Pharmacy and Poisons Ordinance (Cap. 138) (PPO) and its subsidiary legislation (including the Pharmacy and Poisons Regulations (Cap. 138A) (PPR)). The relevant ordinance and regulations adopt a risk-based approach in laying down a set of comprehensive and stringent control measures to regulate the manufacture, import and wholesale, and retail of pharmaceutical products and drugs. The Department of Health (DH) is responsible for the enforcement of the PPO and the PPR.

As stipulated by the relevant ordinance and regulations, only persons authorized by the Pharmacy and Poisons Board (PPB) as "Authorized Sellers of Poisons" (ASPs) are allowed to conduct the relevant retail business of selling poisons (including poisons listed in Part I and Part II of the Poisons List at the Tenth Schedule to the PPR). Moreover, those who wish to conduct retail business of selling poisons listed in Part II of the Poisons List should obtain a licence for "Listed Seller of Poisons" (LSP) issued by the PPB.

The PPO stipulates that the terms "pharmacy", "dispensary", "drug-store" or the Chinese term "藥房" used in connection with premises shall be deemed to be calculated to suggest that such premises are premises registered under the PPO as premises of an ASP and are under the control of a registered pharmacist. The PPO restricts the use of the title "藥房", which can only be used for premises registered by an ASP. Failure to do so may constitute an offence. Upon conviction of this offence, a person is liable to a maximum penalty of a fine of \$100,000 and imprisonment for two years.

Furthermore, under the Trade Descriptions Ordinance (Cap. 362), any person who imports, exports, sells or manufactures goods (including medicines) to which a forged trade mark is applied commits an offence. The Customs and Excise Department (C&ED) is responsible for enforcing the relevant provisions. Prosecution will be instituted if there is sufficient evidence. Cases will be brought before a Magistrate's Court for trial and upon summary conviction, an offender is liable to a maximum penalty of a fine of \$100,000 and imprisonment

for two years. Serious cases may be referred to the District Court for trial and upon conviction on indictment, an offender is liable to a maximum penalty of a fine of \$500,000 and imprisonment for five years.

In consultation with the Commerce and Economic Development Bureau, the DH and the Hospital Authority (HA), our reply is as follows:

- (1) The website of the Drug Office of the DH has set out in details the names of ASPs and LSPs, and the addresses of their premises. Moreover, members of the public can check whether a shop is an ASP or LSP by entering the name or the address of the shop on the "Search Drug Dealers" link of the website. The DH also educates members of the public how to identify ASPs and LSPs through the above-mentioned website. The DH does not maintain statistics on the number of shops which are not ASPs but have the character "藥" in their Chinese names.
- (2) During the period between 2011 and August 2015, the Drug Office of the DH conducted 5 588 inspections to ASPs and 35 320 inspections to LSPs, during the same period there were a total of 34 convicted cases involving LSPs and 135 convicted cases involving ASPs (including 77 cases in which the ASPs were convicted for illegal sale of prescription drugs). For the cases involving ASPs, three registered pharmacists were convicted. Detailed figures of inspection and prosecution are set out as follows:

<i>Year</i>	<i>Number of LSPs up to the year end</i>	<i>Number of ASPs up to the year end</i>	<i>Number of inspections to LSPs</i>	<i>Number of inspections to ASPs</i>	<i>Number of convicted cases involving LSPs</i>	<i>Number of convicted cases involving ASPs</i>
2011	3 572	557	7 141	1 138	8	33
2012	3 827	570	7 426	1 222	5	42
2013	3 907	597	7 746	1 186	6	23
2014	3 951	605	7 878	1 229	5	17
2015 (January to August)	4 025	606	5 129	813	10	20
Total			35 320	5 588	34	135

Furthermore, in the same period, the Drug Office of the DH processed a total of nine convicted cases involving illegal display or use of a prescribed logo, emblem or the term "藥房" by medicine retailers. All nine cases involved retail shops without a licence.

- (3) The C&ED received 469 complaints and reports involving counterfeit pharmaceutical products in the past five years. Upon investigation and analysis, including requesting the trade mark owners to verify the authenticity of the products in question, the C&ED detected 133 cases, in which 92 persons or companies were convicted. The details are set out as follows:

	2011	2012	2013	2014	2015 (January to September)
Number of complaints and reports	81	85	88	129 ⁽¹⁾	86
Number of cases detected	21	22	28	34	28
Number of convictions (persons/companies) ⁽²⁾	25	14	22	14	17

Notes:

- (1) The C&ED stepped up enforcement and publicity efforts against counterfeit pharmaceutical products in 2014. It is believed that the marked increase in the number of complaints and reports was due to enhanced public awareness and vigilance of counterfeit pharmaceutical products. Some of these complaints and reports were found unsubstantiated after investigation and analysis.
- (2) The number of convictions among the cases adjudicated upon by the Court in that year.
- (4) Upon investigation, the DH found that among the cases reported by the HA between 2011 and August 2015, there were 78 cases involving people taking prescription drugs bought from ASPs without doctors' prescriptions. For each case, the DH will carry out epidemiological investigation immediately and, if there was doubt about whether the drug was fake or spurious, the case will be referred to the C&ED for follow-up action. Separately, the DH

made referrals of three non-ASP cases involving fake or spurious drugs containing Western medicine ingredients during the above-mentioned period.

- (5) Since counterfeit pharmaceutical products may be hazardous to public health, the Government attaches great importance to the problem of such products. Various departments have adopted the following measures to tackle the problem:
- (i) the DH has an established mechanism in place to carry out surprise inspections to licensed ASPs and LSPs to check whether they are in compliance with the relevant legislations and licensing conditions. It also conducts test purchases at ASPs and LSPs from time to time to combat the illegal sale of prescription drugs;
 - (ii) if the DH receives information suggesting that someone is suspected to have violated the PPO and its subsidiary legislation (including the suspected illegal sale of prescription drugs by ASPs and LSPs, or by other retail premises), it will carry out investigation immediately. Joint operation with the Hong Kong Police Force and the C&ED will be conducted when necessary;
 - (iii) any act of alleged misconduct by an ASP may be subject to inquiry by Disciplinary Committees appointed by the PPB. The PPB will make decisions which include disqualifying the ASP for a period of time, removing its premises from the register of premises, and serving a written warning on it. In addition, the PPB may also, according to the circumstances, disqualify or temporarily suspend the licence of any LSP which contravenes the relevant provisions under the PPO and its subsidiary legislation;
 - (iv) to cope with the increasing number of retail premises engaged in the retail sale of drugs, the DH has stepped up its publicity and educational efforts to enhance public understanding of different types of drug retailers. Over 10 000 copies of education pamphlets on drug retailers and registered

pharmaceutical products have been published for distribution to inbound tourists through the Hong Kong Tourism Board and the Travel Industry Council of Hong Kong, and to arriving passengers through sea, land and air control points;

- (v) the C&ED intercepts the import of counterfeit pharmaceutical products into Hong Kong, and conducts blitz operations from time to time at shops selling pharmaceutical products across the territory to check if counterfeit pharmaceutical products are sold. If a shop is found selling counterfeit pharmaceutical products, the C&ED will take enforcement actions promptly and investigate all parties involved, including the salesperson(s), the person-in-charge and the licensee of the shop; and
- (vi) the C&ED maintains close collaboration with the pharmaceutical industry and trade mark proprietors in market surveillance. In addition, the C&ED has introduced reward schemes with trade mark proprietors to encourage the public to report activities involving counterfeit and fake pharmaceutical products, with a view to combating such crimes more effectively.

The enforcement agencies will continue to take measures to combat illegal activities.

Street Posting Boxes Bearing British Crown and Royal Cypher Engravings

19. **MS CLAUDIA MO** (in Chinese): *President, at present, among the posting boxes available on the streets for the public to post mail, 59 were cast in the colonial era and engraved with British crown markings and royal cyphers (the "markings and cyphers"). It has been reported that Hongkong Post (HKP) plans to cover the markings and cyphers with iron plates showing HKP's corporate logo of a white humming bird on the grounds that it is inappropriate to display the markings and cyphers on posting boxes that are still in service. However, according to a former Postmaster General, the Government decided by the time of reunification of Hong Kong not to remove those posting boxes because*

they were still usable. He has also criticized that the attempt to cover the markings and cyphers only serves to attract more attention to them. In this connection, will the Government inform this Council:

- (1) of the specific timetable for implementing the plan to cover the markings and cyphers and the relevant details;*
- (2) as it has been reported that a former Senior Controller of Posts stated publicly at the time of reunification of Hong Kong that there was no plan to replace those posting boxes as they were practical stuff not meant for pledging allegiance to anyone, why HKP, after a lapse of quite some years, considers it inappropriate to display the markings and cyphers, and what well-founded justifications it has for reversing the previous decision;*
- (3) whether HKP's decision to cover the markings and cyphers was made out of professional judgment or under external pressure; of the role played by the Commerce and Economic Development Bureau (CEDB), to which HKP is subordinated, in the incident and whether CEDB has given any advice;*
- (4) as it has been reported that HKP had made the decision in as early as March this year to cover the markings and cyphers, but it has all along not announced the decision, whether HKP had fully consulted the public and taken into account public views before it made the decision; if it had, of the details; if not, whether HKP will consider shelving the plan and consulting the public before making a decision; and*
- (5) how the Secretary for Commerce and Economic Development will respond to public concerns about covering the markings and cyphers, so as to realize the spirit of the Accountability System for Principal Officials?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, there are currently around 1 150 street posting boxes in the territory for the public to post mail, 59 of which are cast-iron posting boxes. After internal discussion, the Government considers it inappropriate to display the

crown and the British royal cypher on the old posting boxes that are still in service, and is looking into ways to update the markings on these boxes. In parallel, the Government is considering the best way to conserve old posting boxes. In recent months, Hongkong Post met with organizations and individuals interested in heritage preservation and old posting boxes to explain to them the arrangements for updating the markings on these boxes and the conservation of old posting boxes. The Government will listen to and study the views of stakeholders, and will make an announcement after reaching a decision.

Recycling of Waste Plastics

20. **MR KWOK WAI-KEUNG** (in Chinese): *President, it has been reported that as the prices of raw plastics have dropped continuously due to the persistently low prices of crude oil, manufacturers of plastic products purchase less plastics produced from recycled waste plastics. In such a situation where the demand for waste plastics is decreasing and their recovery prices are dropping, the operation of the recycling industry of waste plastics has almost come to a halt in the recent six months. As a result, large quantities of waste plastics have been disposed of at landfills. The situation has not only increased the burden on the landfills, but at the same time has also led to wastage of resources that could have been recovered and recycled. In this connection, will the Government inform this Council:*

- (1) *of the quantities and rates of waste plastics recovered in Hong Kong in each of the past five years; the measures adopted by the authorities for increasing the recovery rates of waste plastics, so as to avoid the disposal of large quantities of plastic wastes at landfills;*
- (2) *whether the authorities compiled statistics on the recovery prices of waste plastics and the export prices of recycled plastics in the past five years; if they have compiled such statistics, of the details;*
- (3) *whether, in the past five years, the authorities monitored and studied the operation of the recycling industry of waste plastics in Hong Kong, including the recovery costs and the problems faced by the industry, etc.; if they did, of the details;*

- (4) *as I have learnt that quite a number of recyclers have now stopped collecting waste plastics, and as a result, large quantities of waste plastics segregated are sent to landfills together with other garbage for disposal, whether the authorities have grasped the situation concerned; if they have, of the remedial measures; and*
- (5) *given that in comparison with the recovery of scrap metals and waste paper, the costs for recovering waste plastics are higher but the profits are lower, recyclers are therefore less keen on engaging in the recycling business of waste plastics, whether the authorities will draw up a long-term plan for the development of the recycling industry of waste plastics (such as setting up a dedicated fund, implementing recycling schemes in collaboration with the business sector and setting targets for the quantities of recovered waste plastics)?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (1) The Government has been adopting the principle of reduce, reuse and recycle to tackle the waste management challenges. In 2013, the Government published the Blueprint for Sustainable Use of Resources 2013-2022 (the Blueprint), setting out comprehensive strategies to achieve the target of waste reduction by 40% in 10 years' time. Public awareness of waste reduction and recovery has been gradually enhanced with the co-ordination and support of various policies and initiatives. According to the statistics compiled by the Environmental Protection Department (EPD), the disposal quantities of local waste at landfills have remained stable over the past few years without causing extra burden to our landfills, nor has the actual effectiveness of our efforts in waste recovery been undermined.

The estimation of recovery quantities of waste plastics in Hong Kong is mainly based on the "domestic export" statistics of plastic recyclables, which are then combined with data on the quantities of local plastic recyclables recycled locally as collected by the EPD's survey conducted on the local recycling industry. In view of the abnormal significant fluctuations in the domestic export statistics of plastic recyclables in recent years, the EPD commissioned an

independent consultant in late 2012 to conduct a detailed study on the generation, recovery and disposal of waste plastics in Hong Kong, and to examine whether the current methodology used for estimating waste recovery quantities and recovery rates is appropriate. The findings of the study confirmed that the estimation method which is mainly based on relevant domestic export statistics of recyclables is the most appropriate approach for Hong Kong. However, there was in general a serious misunderstanding among those practitioners who are engaged in recovering or handling waste plastics, or are involved in trading of related products, in their interpretation of "domestic export" of plastic recyclables under the Import and Export (Registration) Regulations. Therefore, they might have mixed up the plastic recyclables that should belong to the "re-export" category with those belonging to the "domestic export" category when they lodged the export declarations, thereby affecting the accuracy of the estimated quantity of plastic recyclables recovered in Hong Kong. To tackle the problem, the Census and Statistic Department and the Customs and Excise Department have enhanced the verification of domestic export declarations lodged by declarants for plastic recyclables since April 2014 on a sample basis. These enhanced checks require the declarants to provide supplementary information on the plastic recyclables declared, including whether they are locally recovered or imported, and details on the kind of processing they have undergone in Hong Kong. These checks ensure that the declarants clearly understand the definitions of "domestic export" and "re-export", declare the correct place of origin for plastic recyclables and use the proper Hong Kong Harmonized System codes in lodging trade declarations. The EPD has been referring to this supplementary information provided by declarants in estimating the quantity of plastic recyclables locally recovered.

Over the past five years, the recovery quantities, recovery rates and disposal quantities of plastics in Hong Kong are as follows:

<i>Year</i>	<i>Total Quantity of Recovered Plastics ('000 tonnes)</i>	<i>Recovery Rate (%)</i>	<i>Quantity of Disposed Plastics ('000 tonnes)</i>
2009	1 211	66	622
2010	1 577	69	708

<i>Year</i>	<i>Total Quantity of Recovered Plastics ('000 tonnes)</i>	<i>Recovery Rate (%)</i>	<i>Quantity of Disposed Plastics ('000 tonnes)</i>
2011	843	58	618
2012	317	32	668
2013	243	26	681

The recovery quantities and recovery rates of plastics in Hong Kong have been on the decrease in recent years. The main reasons include the continued weak demand for raw materials, including plastic recyclables, from the Mainland manufacturing sector; the Mainland authorities' strict control over the quality of plastic recyclables; and the drop in global crude oil prices since last year affecting the value of plastic recyclables. All these have caused fluctuations in local activities on recycling of plastics.

With the co-ordination of the Steering Committee to Promote the Sustainable Development of the Recycling Industry chaired by the Chief Secretary for Administration, the departments concerned are following up various policies and measures proactively to support the recycling industry with a view to increasing the overall waste recovery rates of Hong Kong, including the plastics recovery rates. The policies and measures concerned include:

- (i) A working group on a "clean recycling" campaign was formed to promote source separation and cleaning of wastes at the community level. Meanwhile, property management companies, green groups, schools and other community organizations were encouraged to jointly organize promotional activities, with the focus on the promotion of clean recycling so as to increase the recovery quantities and the value of recyclables;
- (ii) A Recycling Fund of \$1 billion was set up to promote the recovery and recycling of waste by facilitating the upgrading of the operational capabilities and efficiency of the recycling industry for sustainable development, so that waste can be converted into useful resources and products. The Recycling Fund was officially launched on 6 October 2015 and open for

application from the recycling industry and relevant organizations so as to assist them in upgrading and expanding local recycling operations in the form of a matching fund. We also set up small scale projects with less amount of subsidy and relatively simpler application procedures to facilitate applications from the small and medium enterprises;

- (iii) On land support, the EPD has commissioned a consultancy study on the land requirements of the recycling industry, which will facilitate the Government to formulate land support measures for waste recovery and recycling activities, as well as reviewing the tendering arrangement in letting out short term tenancy sites; and
- (iv) Regarding manpower training and development of the industry, the EPD is stepping up the co-operation with the industry to increase the operational capability of local recyclers and uplift the image of the industry, raise the standard of the occupational safety and health, enhance the training for current practitioners and attract more newcomers to join the industry, thereby promoting the long term development of the local recycling industry. In addition, the Hong Kong Quality Assurance Agency (HKQAA) launched the "HKQAA Hong Kong Registration — Recycling Services" scheme in October 2015 to promote best practice among the recycling industry and encourage organizations to treat waste properly. A code of practice has been provided with a view to promoting environmental protection and occupational health and safety practices within the recycling industry.

The Government will continue to review the effectiveness of these measures and take follow-up actions and enhancement measures in a timely manner to ensure that the measures meet the needs of the local recycling industry and promote the green circular economy.

- (2) The SAR Government has not compiled official statistics on local recovery prices of plastic recyclables and export prices of recycled plastics. However, we have been maintaining close contact with the industry and keeping abreast of the operational and market situation of the plastics recycling industry through different

channels. We observed that due to external factors, there was indeed a decreasing trend in recent years in the domestic export unit value⁽¹⁾ (that is, value divided by quantity) of plastic recyclables, which is calculated based on information on the domestic export declarations for plastic recyclables. Over the past five years, the domestic export unit value of plastic recyclables were as follows:

<i>Year</i>	<i>Unit Value of domestic export of plastic recyclables [Thousand HK\$/tonne]</i>
2009	2.2
2010	2.3
2011	2.4
2012	2.4
2013	1.7

- (3) The EPD has maintained close contact and communication with the local recycling industry and monitored closely the market situation of recyclables. A consultant was commissioned to carry out project-specific research for the recycling of local plastics. We understand that the local plastics recycling industry is facing various challenges, including the need for a stable supply of large quantity of clean and separated waste plastics so as to reduce the cost for transportation and treatment, the need to improve the technology for high value-added processes, the need to control the operating costs of labour and insurance etc, and the need for suitable sites for operation, and so on. The EPD has started to study or implement various recommendations put forward by the report, which can be downloaded from: <http://www.legco.gov.hk/yr13-14/english/panels/ea/papers/ea0328cb1-417-1-e.pdf>.
- (4) We learnt from the industry that there was still a certain demand for clean and sorted waste plastics from the local market. Therefore, through publicity and public education, we will continue to urge the public to do a good job in waste separation at source and not to contaminate the recyclables and mix them with waste. This will help increase the value and recovery of the recyclables.

(1) Unit value is not price. It may change due to non-price factors. For example, changes in proportions and qualities of various types of plastic resins contained in the whole batch of plastic recyclables. However, in general, the trend of unit value can be taken as roughly reflecting the price trend.

In addition, the EPD conducts the Waste Composition Survey every year to compile statistics on the disposal quantities of various types of municipal solid waste. The statistics showed that there was no significant increase in recent years in the disposal of waste plastics at landfills (please refer to the quantity of waste plastics disposed of at landfills over the past five years listed above). At present, the EPD keeps record of the waste vehicles and the waste they transported at the entrances of various landfills. If it is found or suspected that a large quantity of plastic recyclables are delivered to the landfill, the EPD will not only intercept and trace the source but also contact the owner and assist them to arrange for recycling so as to effectively prevent the disposal of large quantities of imported plastic recyclables in landfills. The EPD will also assist the waste plastics producers such as the property management companies of residential estates, commercial and industrial buildings as well as the recyclers in finding suitable recyclers for the recoverable waste plastics so as to avoid the disposal of large quantities of recoverable waste plastics.

The EPD has stepped up inspection recently and visited various community collection points and waste plastics recycling sites to understand their situations and learnt that the collection, recycling and treatment of waste plastics in the downstream are generally in normal operation. As far as we understand, in response to the situation concerned, some recyclers have adjusted the recycling processes, made flexible arrangement regarding the storage volume and looked for other outlets.

- (5) Although different types of recyclables will face different market situations, all of them are affected by changes in market demand and fluctuations in their prices. At present, the quantities and values of recovery of local waste plastics are indeed under the pressure of external factors such as decreasing oil prices and stringent import/export control measures of relevant markets. We will continue to maintain close contact and communication with the local recycling industry and monitor closely the market situation of the recyclables so as to review the relevant policies and measures in supporting the local recycling industry in a timely manner with a view to assisting the industry in adapting to the changes in the

external environment. And our response to part (1) regarding the policies to support the sustainable development of recycling industry is also applicable to the overall industry.

Termination of Employment of Teachers by Aided Schools

21. **MR IP KIN-YUEN** (in Chinese): *President, according to the Code of Aid for Aided Schools, the Incorporated Management Committee should give advice and support to a teacher whose performance is unsatisfactory and, if there is no improvement in performance, may serve the teacher a written warning. If there is still no improvement after two written warnings have been served, the appointment of the relevant teacher may be terminated after a sufficient period of notice has been given. The Incorporated Management Committee must forward copies of the aforesaid written warnings to the Permanent Secretary for Education, so that the Education Bureau (EB) may take note and/or follow up where necessary. Some stakeholders have relayed to me that schools often take disciplinary actions (e.g. serving the aforesaid written warnings) against the teachers concerned without giving them adequate opportunities of being heard. In this connection, will the Government inform this Council:*

- (1) *of (i) the number of copies of the aforesaid written warnings received by EB, (ii) the number of cases in which EB took follow-up actions after receiving such copies, (iii) the number of cases in which EB concluded upon assessment that the written warning was inappropriately served by the schools (with a breakdown of the numbers of cases and the relevant reasons by whether EB requested the schools to withdraw written warnings), and (iv) the number of schools which withdrew the written warnings in accordance with EB's requests and the number of such cases involved, in each of the past three years; and*
- (2) *whether EB will, in order to safeguard the interests of the teachers concerned, comprehensively improve the disciplinary procedure against teachers whose performance is unsatisfactory by, for example, putting in place a mechanism similar to the civil service disciplinary mechanism to require schools to hold hearings before penalizing the teachers concerned to enable the teachers to make representations on the allegations, and allow their lawyers and*

representatives to accompany them to the hearings to offer them legal advice or assistance, thereby protecting the rights of the teachers concerned?

SECRETARY FOR EDUCATION (in Chinese): President, the Codes of Aid that are currently applicable to aided schools include the Code of Aid for Secondary Schools, the Code of Aid for Primary Schools, the Code of Aid for Special Schools and the Code of Aid for Aided Schools which is used by aided schools with an Incorporated Management Committee (IMC). Our reply to Mr IP's question on the Code of Aid for Aided Schools is as follows:

- (1) As the employer of teachers, the IMC of an aided school is responsible and ultimately accountable for the appointment, promotion, resignation, retirement, termination, dismissal and any other staffing matters of the school. Aided schools shall comply with the Employment Ordinance, the Education Regulations and all employment-related rules and regulations under relevant ordinances and legislations in handling matters related to termination of employment of teachers.

The provisions on termination of employment, including serving of written warnings, in the Code of Aid for Aided Schools are applicable to teachers appointed in the school year subsequent to the incorporation of the IMC. According to the Code of Aid for Aided Schools, schools are required to submit a copy of the written warning served on a teacher to the Permanent Secretary for Education and follow-up actions will be taken by the Education Bureau as appropriate. In the past three school years, seven copies of such written warnings (involving six cases) served to relevant teachers were received from schools with IMCs. The Education Bureau has followed up on each case and none of the warnings need to be withdrawn.

- (2) On disciplinary arrangements against teachers, it is set out in the School Administration Guide, which is applicable to all aided schools, that the staff concerned must be given adequate opportunity and reasonable time to improve their performance and to address/redress an accusation. The grievance procedures should also be clearly communicated to all staff.

As regards the establishment of an inquiry hearing mechanism similar to that of the civil service for inclusion into the disciplinary procedure against teachers as mentioned in the question, we consider it inappropriate to put on par the two systems as the terms of employment and conditions of service of aided school teachers are different from those of civil servants.

Unlike summary dismissal for cases of serious misconduct, gross negligence or having adverse impact on students or on their learning, serving teachers with written warnings aims at, among others, giving the teachers concerned an opportunity for improvement. Teachers who have been served a written warning will not necessarily be dismissed. In fact, teachers involved in the six cases mentioned above have not been dismissed by the school.

The Government is committed to providing quality school education for students, and teacher quality is the key to effective learning of students. IMC of schools, established on the basis of participatory decision-making, transparency and accountability, is responsible for the provision of quality school education that reflect the characteristics of the school. The professional governance framework of IMC should be respected and trusted. By taking disciplinary actions against underperformed teachers to ensure quality education for students, the IMC is not only performing its management duty but also fulfilling its accountability obligation for the quality of education provided by the school. We believe this is also the expectation of the community on the Government and the education sector.

Charging Facilities for Electric Vehicles

22. **MR KENNETH LEUNG** (in Chinese): *President, to improve roadside air quality and reduce greenhouse gas emissions, the Government has been proactively promoting the use of electric vehicles (EVs), with the policy objective of making Hong Kong "one of the cities where EVs are most widely used". However, some EV owners have relayed that the some 1 200 EV chargers currently available for public use (public chargers) are far from adequate, and ancillary facilities are gravely insufficient as well. Moreover, an internationally*

uniform set of conductive charging standards for EVs is currently unavailable. The conductive charging standards most commonly adopted by various major EV manufacturers include: the International Electrotechnical Commission (IEC), Society of Automotive Engineers (SAE) of the United States, GuoBiao (GB) of China and CHAdeMO DC quick charging standard of Japan. As different charging methods and plugs are used by different models of EVs, EV owners find it very inconvenient when using public chargers to charge their EVs, and this in turn has posed an obstacle to the popularization of EVs. In this connection, will the Government inform this Council:

- (1) whether it has considered drawing up a set of official charging standards for EVs in Hong Kong; if it has, of the details; if not, the reasons for that;*
- (2) of a breakdown, by conductive charging standard, of the existing numbers of public chargers and registered private EVs (set out in the table below);*

<i>Charging speed</i>	<i>Conductive charging standard</i>	<i>Number of public chargers</i>	<i>Number of registered private EVs</i>
<i>Standard</i>	<i>BS1363</i>		
<i>Medium</i>	<i>IEC 62196 (less than or equal to 20 kilowatts)</i>		
	<i>SAE J1772</i>		
	<i>Others</i>		
<i>Quick</i>	<i>CHAdeMO</i>		
	<i>GB 20234.2</i>		
	<i>CCS DC Combo</i>		
	<i>IEC 62196 (exceeding 20 kilowatts)</i>		
	<i>Others</i>		

- (3) whether it has assessed (i) if the existing respective numbers of standard, medium and quick public chargers can allay vehicle owners' concern about charging issues and boost their confidence in*

switching to EVs, and (ii) how these numbers compare with the current and future demands for chargers; whether it has any specific plans to install additional public chargers; if it does, of the details (including the conductive charging standards involved); if not, the reasons for that;

- (4) *whether it has formulated comprehensive development strategies concerning the management and payment methods of public chargers, as well as the information technology security involved in the systems concerned, etc.; if it has, of the details; if not, the reasons for that;*
- (5) *given that the Government has been encouraging developers to install EV chargers in the car parks of newly constructed buildings through granting concessions on Gross Floor Areas for car parks, and it has written to owners' corporations and owners' committees to appeal for their positive responses to requests for installing EV charging facilities in the properties under their management, whether the Government knows, since the implementation of the aforementioned measures, the respective numbers of private residential properties in which EV charging facilities were installed upon the properties' completion and those in which EV charging facilities were retrofitted after the properties' completion, together with a list (set out in the table below) of such properties' names, the number of units in the properties and the number of chargers installed; whether the Government has considered offering more incentives to encourage managers of private properties to install EV charging facilities; if it has, of the details; if not, the reasons for that; and*

<i>Names of the private residential properties</i>	<i>Number of units</i>	<i>Number of chargers</i>

- (6) *given that the number of registered electric taxis has dropped from 48 as recorded at the end of last year to 29 in June this year, exhibiting a downward trend, and that the relevant figures are far*

less than the 3 000 originally anticipated by an electric taxi supplier, whether the authorities have looked into the reasons behind the situation; if they have, whether one of the reasons is that there are insufficient charging facilities; whether, in addition to granting exemption from first registration tax, the Government will enhance public charging facilities to encourage the taxi trade to switch to electric taxis; if it will, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, electric vehicles (EVs) have no tailpipe emissions and are efficient in converting energy from the grid to power. Replacing conventional vehicles with EVs can help improve roadside air quality and reduce greenhouse gas emissions. The Government has been actively promoting the wider use of EVs. Such efforts include, *inter alia*, various government departments taking the lead in using EVs, waiving first registration tax for EVs, working with the private sector to expand the EV charging network and encouraging vehicle suppliers to introduce suitable EV models into Hong Kong. As at end September 2015, 2 514 registered electric private cars are in use in Hong Kong. Comparing with only 60 in late 2010, the increase is encouraging and also shows that the relevant government policies have boosted the number of EVs.

My specific responses are as follows:

- (1) Regarding charging facilities, given that there is yet an internationally harmonized standard for EV charging and that EVs in Hong Kong are mainly imported, setting a standard for EV charging will limit the choices of EV owners. So far, the Transport Department has approved 46 models of EVs from seven countries for use in Hong Kong. There are currently about 1 200 public charging points in various districts of Hong Kong and the public charging facilities are available for use by all electric private cars of different makes in the market. As for commercial EVs, such as light goods vehicles and light buses, EV operators will usually set up their own charging facilities to cater for their operational needs. The Government will keep in view the development of EV charging standards and consider the need to enhance the charging network in a timely manner.

- (2) As at end September 2015, there are 2 514 registered electric private cars and about 1 200 public charging points in Hong Kong. The number of public charging points by charging standards and electric private cars that can use these charging points are set out in the table below:

<i>Charging speed</i>	<i>Conductive charging standard</i>	<i>Number of public charging points</i>	<i>Number of electric private cars that can use the charging points*</i>
Standard	BS1363	904	2 463
Medium	IEC 62196 (less than or equal to 20 kW)	142	2 392
	SAE J1772	18	255
	Others	20	1 733
Quick	CHAdeMO**	11	1 983
	GB 20234.2	40	51
	CCS DC Combo**	3	398
	IEC 62196 (exceeding 20 kW)**	27	2 392
	Others	36	1 688

Notes:

* A particular model of electric private cars may use different types of public chargers, including the use of charger plug adaptors.

** Applicable to multi-standard quick chargers.

- (3) While car owners usually charge their EVs at the parking spaces of their home or office, they will make use of public charging facilities when their electric cars need to extend their mileage.

We have kept in view the growth of EVs and have been working with the commercial sector to expand and enhance the charging facilities so as to promote the wider use of EVs. There are currently about 1 200 public charging points in various districts of

Hong Kong, among them 180 are medium chargers, 11 are quick chargers of CHAdeMO standard and 106 are quick chargers of other standards.

Last year the Government installed 100 medium chargers at 16 government car parks, which are suitable for use by most EVs and the charging time is 60% faster than that of standard chargers. In general, about an hour charging with the medium charger is sufficient to meet the need of an EV. Moreover, the commercial sector has been upgrading their existing public standard chargers to medium chargers and installing multi-standard quick chargers. EV suppliers have also been proactive in adding charging facilities, including medium and quick chargers, at public venues to support the operation of EVs.

- (4) In recent years, there has been significant technology advancement for EVs. But in comparison with conventional vehicles, the prices of EVs are still on the high side. To promote the use of EVs, the Government has installed charging facilities for public use, and charging at these facilities are basically free at present. The Government will closely monitor the growth of EVs. When considering the need for expanding the charging facilities, the Government will take into account of the management and payment systems of the charging facilities and the development of the security of information technology in relation to these systems, and examine the fee collection and management methods in respect of these charging facilities. We will formulate relevant policies in a timely manner, including the arrangement on collecting fees for using public charging facilities.
- (5) To encourage private car parks to provide more EV charging facilities, the Government has introduced the following initiatives:
 - (i) Since April 2011, concessions have been granted on gross floor area for car parks in new buildings to encourage developers to provide basic infrastructure for EV charging facilities (including sufficient power supply, electrical cables

and ducts) in car parks of new buildings at the construction stage so that charging stations can be set up to meet the needs of car park users in future;

- (ii) The planning guidelines in relation to new buildings were amended in June 2011, recommending that standard EV charging facilities should be provided at 30% of the private car parking spaces; and
- (iii) The Electrical and Mechanical Services Department has established a dedicated team and a hotline (Tel: 3757 6222) to provide information and technical support for those who intend to install charging facilities. In addition, the Government has issued guidelines on the arrangements and technical requirements for setting up charging facilities.

From April 2011 to September 2015, nearly 80% of car parking spaces under newly approved development plans have been equipped with the infrastructure for installation of EV charging facilities. We do not have statistics relating to EV charging facilities installed at private residential properties on completion or afterwards.

Moreover, the two power companies would give technical support to their customers who intend to install charging facilities at the car parking spaces of residential or commercial buildings. We have also noted that there are companies in the market that provide one-stop service, including installation of charging facilities and provision of charging service, to those private housing estates that require such service.

We will keep encouraging private developers and property management companies to install more EV charging facilities. We will also closely monitor the growth in the number of EVs so as to assess the need for expanding and enhancing charging facilities to promote the use of EVs.

- (6) In 2013, a Mainland vehicle supplier introduced an EV model into Hong Kong for use as electric taxis under its rental programme. So far, that model is still the only electric taxi model registered in Hong Kong. The number of electric taxis depends on the supplier's business strategies and whether the EV model can cope with the operational needs of taxis in Hong Kong. As local taxis usually operate around the clock without breaks, the EV charging requirements are very demanding.

To encourage the transport sector to adopt green and innovative transport technologies, the Government set up a \$300 million Pilot Green Transport Fund in March 2011 to subsidize the trade to try out these technologies. If the trade makes use of the Fund for trying electric taxis, subsidies will also be granted for setting up charging facilities in addition to the price premium between EVs and conventional taxis. To facilitate the trade to expand the electric taxi fleet, the Government has also launched a pilot scheme last year that enables electric taxi suppliers to install quick chargers at the car parks administered by the Transport Department.

BILL

Second Reading of Bill

Resumption of Second Reading Debate on Bill

PRESIDENT (in Cantonese): Bills. We now resume the Second Reading debate on the Peak Tramway (Amendment) Bill 2015.

PEAK TRAMWAY (AMENDMENT) BILL 2015

Resumption of debate on Second Reading which was moved on 6 May 2015

PRESIDENT (in Cantonese): Mr Jeffrey LAM, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

MR JEFFREY LAM (in Cantonese): President, in my capacity as the Chairman of the Bills Committee on Peak Tramway (Amendment) Bill 2015 (the Bills Committee), I submit the Report of the Bills Committee and briefly report on the deliberations of the Bills Committee. The Peak Tramway (Amendment) Bill 2015 (the Bill) seeks to provide for the grant and termination of the operating right of the peak tramway, for the mandatory lease or sale of properties that are essential to its operation, and for the transfer of the policy responsibility for the Peak Tramway Ordinance to the Secretary for Commerce and Economic Development.

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

The Bills Committee has held four meetings and received views from three deputations. The Bills Committee supports the policy direction of the Bill. In respect of the exit mechanism proposed under the Bill that the property owner has to let the essential premises and dispose the essential equipment to the new operator when the operating right of peak tramway changes hand, some members and deputations were concerned about the compliance of such exit mechanism with the Basic Law provision on protecting the right of private ownership of property. Some members opined that even if the Bill provides to let the essential premises at open market rent, there is still potential impairment to the owner's property. The Government explained that the proposed mandatory lease arrangement (MLA) under the Bill is consistent with the protection of rights to use and dispose of property in accordance with law as required under Article 105 of the Basic Law. The relevant details have been set out in the Report.

Members have also invited the Government to explore the feasibility of implementing the proposed MLA through non-legislative means, like having the Peak Tramways Company Limited (PTC) agreeing to surrender its present land grant in respect of the relevant plots of land to the Government, and asking the Government to make a re-grant to the PTC containing the terms of the proposed MLA. As the Government explained that a modified land lease does not have any binding effect on non-contracting parties (such as the new operator), some members further suggested to draw on the model of a Deed of Mutual Covenant, by which the rights and responsibilities of the tenants of a building are bound, or may incorporate the MLA requirements as part of the terms of the operating right to bind the new operator.

The Bills Committee has deliberated on public consultation work with respect to the grant of the operating right. The Government agreed that it will consult the Legislative Council before making a recommendation to the Chief Executive in Council for its consideration along with all the submissions received. The Secretary for Transport and Housing will make an undertaking on this later on. Other deliberations have also been set out in the Report.

The Bills Committee has not raised objection to the Committee stage amendments proposed by the Government, and has noted that Mr Tony TSE has moved an amendment with respect to the amount of rent equal to the open market rent that the lessee must pay to the lessor under the Bill.

Deputy President, the following is my views on the Bill. The peak tramway is one of the most popular tourist attractions of Hong Kong. Riding the peak tram to the Peak for enjoying the panoramic night view of the Victoria Harbour is a unique experience for tourists. The peak tramway has served countless local people and tourists for more than a century. Occasionally, I myself would love to take a tram ride to the peak and have a walk there. I believe that like me, Hong Kong people wish to see the peak tramway continue its operation.

The peak tramway has been run by the PTC since its commissioning in 1885. Over the years, the peak tramway has managed to deliver satisfactory safety performance and services. The new development plan proposed by the PTC this time, including initiatives to increase the current capacity, renovate the terminus, improve the queuing arrangement, and so on, has responded to public concern.

As there is no provision on the future operating right of the peak tramway under the existing legislation, the Bill seeks to provide for, once and for all, a mechanism for granting the operating right of the peak tramway from 2016 onwards, and to add an exit mechanism to allow a party other than the PTC to operate the peak tramway. According to my understanding, the public in general find the services provided by the PTC satisfactory, and the PTC has also indicated its intention to continue the operation. Under this circumstance, what is the justification for setting up an exit mechanism? The justification is that according to the existing legislation, the peak tramway service should be run by the PTC. Some consider this a kind of monopoly, and an even bigger problem is that if the PTC encounters operation problems in the future, the Government and

the Legislative Council will then be duty-bound to ensure the provision of uninterrupted peak tram service to the public. At that time, it will be necessary to use the exit mechanism to facilitate the operation by the new operator. As the exit mechanism involves the issues of land ownership, it has increased the complexity of the Bill. The sites of the two terminals as well as the structures and buildings on the terminal sites, including the track, tramcars, and so on, are properties of the PTC, whereas the land on which the track lies is under Government ownership. If the operating right of the peak tramway changes hand, it will arouse the problem of how to deal with the issues related with the relevant equipment and sites. Deputy President, as everyone is aware, the Basic Law provides for the protection of private ownership, meaning that no one — including the Government — has the right to lay his hand on anything under private ownership, and only the property owner has full discretion to dispose his property. As such, the MLA under the Bill has aroused Members' concern. The relevant provisions legitimately authorize the Government to implement the MLA, under which the properties under the ownership of a company will be let at market rent to another party. We are concerned as to whether this would become a precedent, and whether similar arrangement would appear in other legislation in the future. This would have impact on Hong Kong's business environment and its reputation on economic freedom.

Deputy President, I understand that the essential premises and equipment are indispensable to the operation of the peak tramway service, yet it is natural for Members to take a conservative stand when they hear those terms such as "legislation" and "mandatory". But still, the Government has provided detailed replies to the Bills Committee, in which it indicates that upon examination, the Department of Justice advised that the proposed arrangement has not contravened with Article 6 and Article 105 of the Basic Law. The peak tramway is a tourist facility of great importance in Hong Kong, and its proper operation concerns overall interest of the public. Coupled with the PTC's acceptance of the proposed arrangement and the few points of consideration as elaborated below, in my view, the current treatment is already a more desirable one.

Our consideration is that firstly, no other means can guarantee the operation of the peak tramway. Some Members propose to modify the land leases instead of enacting legislation, but the Government explains that the effect will be different, and there will be no binding effect on the new operator, who is not a contracting party. Secondly, the MLA is only applicable to the essential premises, as stated in the Bill. The premises that must be let under the MLA are

essential to the operation of the peak tramway. Take the Peak terminal as an example, the shopping arcade and viewing terrace above the terminus should not be classified as a part of the essential premises, and it is not necessary to let these premises to the new operator. This can already protect the interest of the original land owner. Thirdly, this power cannot be exercised easily, and the new operator should first negotiate with the owner of the essential premises. Having listened to the views of the Bills Committee, the Government has revised the Bill by adding clauses to restrict the power of the MLA. That means when there is genuine need to change the operator, the new operator and the existing operator should first hold negotiations. It is only under the circumstance that the negotiation falls through and the tram service is on the verge of suspension that the Government will exercise the power of the MLA. Furthermore, based on the current performance of the PTC, if it can maintain its service level, I believe any problem or situation relating with a change in the operating right will not easily emerge. After all, no other operator but the PTC has the experience in operating the peak tramway. In the future, when considering whether to grant the operating right, the Government will consult the Legislative Council first and submit the views of the public to the Chief Executive in Council for consideration to ensure that the granting process is impartial and can live up to public expectations.

Deputy President, another issue that deserves attention is that two sites located at Garden Road and the Peak currently owned by the PTC will have their respective land lease expire in 2114 and 2031. This time the operating right will be granted to PTC for 10 years, and such right can be extended for another 10 years. By the time when PTC's operating right expires, it is already 2036. This means the problem relating to the right of use of the sites on the Peak should be settled during the period of the operating right. Of course, this is beyond the scope of the Bill, and it is even an issue that should be dealt with by the governments in the future. But still, we hope that the Government will not make any more interim transitional arrangement in the future, as this makes everyone so nervous.

Deputy President, I know that today Mr Tony TSE will move an amendment on the MLA. As the Bills Committee has already completed its scrutiny work, Mr TSE's amendment has not been deliberated by the Bills Committee. Back to the Bill, if the Government really has to implement the MLA, the new operator should pay open market rent to the lessor. There is also a mechanism to handle the disputes arising from the rental amount or other terms

of the lease. In addition, as I said earlier, the PTC has already accepted the MLA, and the Government has explained to members with ample justifications that this arrangement is consistent with the provisions on protecting the ownership of private properties under the Basic Law. Hence, I am of the view that the current provisions under the Bill can protect the interest of the property owner. Mr Tony TSE's amendment counts into any loss as a result of letting the premises, the amount of which may arouse many disputes, and may substantially drive up the rental cost. If consequently, no other operator can afford the rent, the exit mechanism would lose its meaning.

Deputy President, we need to get the Bill passed expeditiously after the completion of its scrutiny to facilitate the Government to grant the operating right before 2016. Here I would like to express my heartfelt gratitude to the PTC for its co-operation and making efforts to cater with the work of the Bills Committee, which has facilitated our scrutiny work to proceed smoothly. I would also like to thank the Bills Committee and the Secretariat for their efforts, which have contributed to the smooth completion of the scrutiny.

Deputy President, I so submit.

MR WONG KWOK-HING (in Cantonese): Deputy President, I am an elected Legislative Council Member from the Island constituency. All along, I have been very concerned about the peak tramway service. The Peak Tramway (Amendment) Bill 2015 (the Bill) seeks to provide for the grant and termination of the operating right of the peak tramway, and also the mandatory lease or sale of properties that are essential to the operation of the peak tramway. I support the Bill.

Deputy President, the peak tramway is a mode of public transport in Hong Kong with a long history of 127 years since it commenced service in 1888, and it is a collective memory to many Hong Kong people. The peak tramway is also an all-time favourite tourism facility among visitors and local people. I remember that in my childhood, my father once took our family to the Peak by the peak tramway, and I felt wonderful and amazing. And, I could also feel my father's affections for me. Up until now, my memory of all this is still fresh and vivid. This is how I feel about the peak tramway, and after the passage of several decades, I can still remember all this.

In my view, the Government must draw up long-term arrangements for the operating right of the peak tramway, because it should avoid any disruption of the peak tramway service and prevent the repetition of the near termination of the peak tramway service in 2013 due to the operator's failure to extend its operating right. I believe Members all want to see that the peak tramway can operate smoothly in the future, so they have not raised any objection to the provisions on granting and terminating the right of operating the peak tramway. But some Members hold divergent views on the mandatory lease arrangement.

Under the proposed mandatory lease arrangement, the existing Peak Tramways Company Limited (PTC) must lease the two terminus sites at Garden Road and the Peak Tower at market rents at the time of transferring the right of operating the peak tramway. Some colleagues are concerned that this arrangement is not in line with Articles 6 and 105 of the Basic Law. But at a meeting of the Bills Committee on Peak Tramway (Amendment) Bill 2015 (the Bills Committee), the Administration already cited the mandatory lease arrangements for other transport services as an example to illustrate that enacting legislation for mandatory lease arrangements was not without any precedents. Besides, the PTC, the owner of the two terminus sites mentioned above, was also of the view that the mandatory lease arrangement was more desirable. Therefore, the arrangement commands the support of various sides.

I agree that the mandatory lease arrangement is the most feasible under the exit mechanism. If the PTC decides to cease the operation of the service, a new operator can rent the two terminus sites from the PTC at market rents. In my view, the relevant requirement is reasonable and justified. The reason is that if only a mandatory sale arrangement is to be put in place, the new operator may not be financially strong enough to buy the two terminus sites. This may raise the threshold for operating the peak tramway and bar those interested parties from operating the service. By that time, the inevitable disruption of the peak tramway service may result. We do not want to see this, and I suppose the vast majority of people will not want to see the disruption or even termination of the peak tramway service either. Therefore, the Government's formulation of the mandatory lease arrangement is understandable and acceptable to me.

Having talked about the mandatory lease arrangement, I also want to point out that the 50-odd employees providing the peak tramway service are all precious professionals and assets and irreplaceable by other mechanics. Their experience constitutes a valuable software for ensuring the normal operation of

the peak tramway. So, at the meeting today, I urge that in case of any need to change the operator, the Government must take effective measures for achieving a seamless handover, such as stipulating certain terms and conditions in its tendering documents or contract to ensure the smooth transfer of all existing employees to the new company, so that the peak tramway can continue to provide quality services. I hope the Secretary can give a positive reply on this later on.

Deputy President, with a view to ensuring the service quality of the peak tramway, the Administration should review the peak tramway service on a regular basis. The Bill stipulates that the right of operating the peak tramway spans 10 years the longest, and the operator may apply to extend the operating right for another 10 years (which means 10 years plus 10 years) after it is granted the operating right. In other words, it may operate the service for 20 years. This can help maintain the provision of the peak tramway service in the long run, but I think the Government should conduct an interim review of the peak tramway service at regular intervals as a means of monitoring the peak tramway service and motivating the operator to improve its services, lest the operator may think that it is free from any regulation and can cease to improve its services after it obtains the operating right.

Let me give an example. Several years ago (probably during the previous term of the Legislative Council), I received many complaints from people and visitors, and I also saw what happened. At the time, some Members' offices were located in a building near the Garden Road terminus, so we could see how the queuing passengers were battered by the scorching sun and heavy rains. I reflected to the authorities and the PTC through various channels that they should find ways to rectify this situation. I proposed to use the space below the flyover next to the Garden Road terminus to alleviate passengers' plight of waiting under the scorching sun and heavy rains. After a long time of reflecting my views, some improvements were made in the end, but "at a snail's pace". I wish to illustrate one point by giving this example. After the passage of the Bill, the operating right can span as long as 20 years. So, the Government should step up its monitoring of the peak tramway service and conduct interim reviews. I wish to put forth the following five requests in the discussion today.

First, I urge the Government to conduct regular reviews of the peak tramway service and step up its monitoring efforts. And, the PTC should submit service performance reports, progress reports on service improvement and passengers' views to the relevant Panels of the Legislative Council (such as the

Panel on Transport) every year as a means of enhancing public monitoring of the peak tramway service and in turn ensuring the continued provision of a quality peak tramway service. This is my first request.

My second request is this. Deputy President, in April this year, I joined my Legislative Council colleagues in a site visit to the Garden Road terminus with the intention of understanding the upgrading plan put forth to us by the PTC. The PTC undertook to build longer tramcars to increase the carrying capacity to 200 passengers, and set up an extensive weather-protected queuing area equipped with air-conditioning systems at the Garden Road terminus. We were excited to hear the upgrading plan. But when we learnt that the upgrading plan required four to five years to complete, we were a bit unhappy. We thought that a lead time of five years to complete the facilities was honestly too long. I hope the Secretary can give a reply on this, as I think that requiring five years to complete the upgrading plan is honestly too slow. The PTC cannot undertake improvements "at a snail's pace". I hope the Government can urge the PTC to speed up the progress of the upgrading plan and seek to bring it to early completion.

My third request is this. During the scrutiny of the Bills Committee, I once called upon the PTC to bear the responsibilities of repairing and improving the midway-stop facilities between the two termini, so as to ensure the timely improvement of such facilities and passengers' safety. I pointed out that the PTC could not ignore this matter, and I remember that the authorities also made an undertaking. I now talk about this for the record, and I will follow it up in the future.

My fourth request is this. The PTC is a century-old company in sole operation of the peak tramway service in Hong Kong. In my view, the PTC should fulfil its corporate social responsibilities. I once asked the PTC a question on the provision of free rides for the elderly and persons with disabilities. The PTC replied that it would specify a date in each year for this purpose. But I think that providing such concession on only one out of 365 days is honestly far from adequate. Now that the PTC's operating agreement has been renewed, I hope the Administration can urge the PTC to bear greater corporate social responsibilities and generously offer more concessions to the elderly and persons with disabilities.

My fifth request is this. As the Government is responsible for the vetting and approval of the operating right, I think it is duty-bound to monitor the operator. We will hold the Government accountable in various aspects, and I also hope that after the passage of the Bill, the Secretary can step up its efforts in holding the PTC accountable and require the PTC to progress abreast of the times and continue to improve its service for people and visitors, so as to turn the peak tramway into the most important landmark transport in Hong Kong. This will in turn benefit everyone.

With these remarks, Deputy President, I support the Bill.

MR TONY TSE (in Cantonese): Deputy President, I rise to speak in support of the resumption of the Second Reading debate on the Peak Tramway (Amendment) Bill 2015 (the Bill).

From the perspective of ensuring the sustainable operation of the peak tramway and the provision of safe, reliable and quality service to Hong Kong people and tourists, I have no objection to most of the amendments proposed in the Bill. However, from the perspective of justice, I must say some proposals of the Bill will cause great concern. The first one is the mandatory lease arrangement (MLA) for essential premises (that is, any land, structure, or building essential to operating the tramway service) in the exit mechanism for the smooth transfer of the operating right. Another is the method of setting the rent chargeable by the lessor. I am of the view that the reference to the market rent proposed in the relevant clause is too narrow in scope as the sole consideration in setting the rent under the MLA. Also, the rent thus determined may not fully reflect the amount which the owner should receive from the mandatory leasing of essential premises. Therefore, if the Government does not amend the relevant part at the end of the day, I will not support the Third Reading of the Bill.

Deputy President, since the peak tramway came into operation some 122 years ago in 1888, its role and function have gradually changed to keep pace with changes in society. It used to be the major means of transport taking people to and from Victoria Peak every day in the past, but it has now become a tourist and recreational facility mainly serving tourists. It has now transformed itself from a pure transportation provider into an operator performing a dual function with tourists as the main emphasis and the provision of transportation as the minor emphasis. Thus, I do not oppose the transfer of the policy

responsibility under the Peak Tramway Ordinance (the Ordinance) from the Secretary for Transport and Housing to the Secretary for Commerce and Economic Development as proposed in the Bill. Yet, I hope that the Bureaux can strive for co-ordination among themselves, because the peak tramway issue very often involves various policy areas, including tourism, economic development and transport. Therefore, I believe if all Bureaux and departments can enhance communication and co-operation, there will be positive effect on improving the service of the peak tramway and boosting its economic efficiency.

In addition to the transfer of the relevant policy responsibility, the amendments to the Ordinance also seek to provide for the granting and termination of the operating right of the peak tramway, the mandatory leasing of essential premises, and the mandatory sale of essential equipment for its operation. One of the major proposals is to establish an exit mechanism to allow for the operating right to change hands smoothly to maintain service. The exit mechanism will give the Chief Executive in Council more powers, including the power to grant the operating right from 1 January 2016 onwards for a period not exceeding 10 years; multiple exercise of the relevant power to terminate the operating right when the operator is or has been in default; and the ordering of mandatory sale of the premises and equipment if the Chief Executive in Council considers them to be essential to the operation of the peak tramway upon the expiry and termination of the operating right.

Actually, during the scrutiny of the Bill by the Bills Committee, several members and I already queried whether the proposal therein on the mandatory leasing of essential premises and the mandatory sale of essential equipment could comply with the Basic Law provision on protecting the right to private property ownership. Although the Government has stressed that the arrangement is not in contravention of the Basic Law, I nonetheless think that the Government may still face the risk of legal challenges in the future. Moreover, on the implementation of the exit mechanism, I do not agree to the Government's proposal on setting the rent for the mandatory leasing of essential premises.

The Bill provides that regarding the mandatory leasing of essential premises, reference should be made to the market rent when setting the rent. The Government has expressed that under the MLA, the owner of the land and property interests of the relevant premises has the power to collect the market rent from the lessee (that is, the operator of the tramway). Deputy President, I am not against the MLA but having regard to justice, I consider that it is neither

sufficient nor fair to base solely on the market rent when calculating the loss suffered by the property holder as a result of the MLA. This is because while providing for the mandatory leasing of essential premises, the Bill has not considered the possible economic loss inflicted on the owner necessitated by the need to divide the land or structure for the leasing of essential premises. The Bill does not protect against such possible losses. Therefore, setting the rent of essential premises at the market value may not fully reflect the actual loss for the owner from the lease. So, I do not agree to new section 11B on the mandatory leasing of premises in clause 15. Later on, I will propose Committee stage amendments in the hope of expanding the base for rent calculation, so as to enhance the protection for the rights of private property owners, and offer them reasonable compensation for the economic loss arising from the mandatory leasing of essential premises.

There is another part of the Bill which I find unjust. It empowers the Chief Executive in Council to grant and terminate the operating right of the peak tramway and decide on the term, and to order the owner to mandatorily lease essential premises to the tramway operator. Consequently, the owner will lose the right to choose the lessee, and the right to determine the lease period and the time of lease termination. Generally, in the free market, the lessor is free to choose the lessee and may determine the tenancy period and rent after holding negotiations with the lessee. As we all know, at present, the tenancy period in the free property market is generally two to three years in duration, and may be renewed for about two to three years. Also, rent will be adjusted every two or three years. Nonetheless, the Bill provides that the lease period decided by the Chief Executive in Council may run up to 10 years. This is in marked contrast to the tenancy period of normally two to three years in the market now.

The Bill also provides that the lessor should ensure that when the lessee takes possession of essential premises, the condition must be suitable for the operation of tramway service. Yet, if the original operator has not shouldered due responsibility during the operation period and has failed to properly repair, maintain and manage the essential premises, it may result in some damage. According to the Bill, when the operator exits, the responsibility of effecting repair and restoring the premises will fall on the lessor, that is, the owner. The Bill provides that the lessor has the responsibility to ensure that when the new operator takes possession, the essential premises will be suitable for tramway operation. I find this arrangement or requirement totally unfair and unreasonable.

Deputy President, at present, the Peak Tramways Company Limited is the operator of the peak tramway, and at the same time, it is also the owner of the land and structures of the terminals at either ends of the tramway track. Therefore, the introduction of an exit mechanism in the Bill will have no substantial effect on the Company. However, when there is a change in operator in the future, the problem I brought up earlier may surface. So, the Government must thoroughly consider all the relevant issues, and strike a balance between protecting the public interest, coping with society's actual need and protecting private ownership rights, so as to avoid treating any side unfairly and reduce the possibility of lawsuits in the future.

Deputy President, I so submit.

MR YIU SI-WING (in Cantonese): Deputy President, I rise to speak in support of the Government's amendment to the Peak Tramway (Amendment) Bill 2015. I will express my views on Mr Tony TSE's amendment later on.

On the issue of regulating the peak tramway, I have proposed to the Bills Committee on the Peak Tramway (Amendment) Bill 2013 that the Commerce and Economic Development Bureau should replace the Transport and Housing Bureau as the Policy Bureau in charge of the regulation of the peak tramway. I would like to thank Honourable Members for their support. The Government has adopted the proposal and made the relevant adjustments in the Bill for scrutiny this time.

When the peak tramway was built over a century ago, it was intended to be a mode of transport for residents travelling up and down the Peak. Following the improvement in road and transportation networks, today the residents usually travel by private cars, buses and mini-buses instead of the peak tram. Nowadays, very few residents still use the peak tramway as a daily transport means; nearly all passengers taking the peak tram are tourists. According to a survey conducted by the Hong Kong Tourism Board, the Peak ranks the second in terms of popularity among all the tourist attractions in Hong Kong. I believe many tourists are eager to travel on this famous tourist attraction. The peak tramway has been widely recognized as an ancillary facility essential to the tourism activities at the Peak. If the Transport and Housing Bureau still regulates the peak tramway purely as a mode of transport, this approach is

absolutely outdated. Putting the peak tramway under the Commerce and Economic Development Bureau as a tourist facility will facilitate the Commerce and Economic Development Bureau's co-ordinating work, as it will consider the peak tramway jointly with other tourist attractions. Ngong Ping 360 is currently regulated as a tourist facility. Similarly, if the peak tramway is regulated as a tourist attraction likewise, its positioning will be very clear. The Policy Bureau concerned can then focus on its work and develop the potential of the peak tramway to an even fuller extent. In the future, I would like the authority concerned to pay more heed to the following:

First of all, all tourist facilities in the Peak area, including tourist attractions, entertainment venues, shopping arcades, restaurants and eateries, the peak tramway, and so on, should be considered as a whole. When planning on tourism development or doing work on publicity and promotion, the Government should focus on how to generate maximum synergy from this chunk of facilities, and manage the interactive relationship between the peak tramway and other related facilities from the angle of tourists' experience and the benefits for local people. This will help lift the overall image of the Peak.

Secondly, as the peak tramway of Hong Kong is a notable attraction with a century-old history, the Policy Bureau concerned has the responsibility to give focused advice to the operator on tourism development, conservation, planning, and so on, from the angle of an expertise, and by making reference to the advanced management experience of overseas countries. This is to ensure that the facilities and services of the peak tramway is effectively monitored and improved, so that better experiences can be provided to tourists and local visitors.

Thirdly, the public are even more concerned about the issue of fare levels. Though the regulation of the peak tramway will be handed over to the Commerce and Economic Development Bureau, the fare levels will still be set by the operator according to market situations. Currently, the fare levels can be called reasonable. I hope that, after the enactment of the Ordinance, when the operator considers whether to adjust the fare levels, it will follow the old good practice by giving adequate weight to public interest and make efforts to assess whether the fare levels are reasonable, so as to avoid excessive volatility in fare prices. On the Government side, it should keep an eye on the operation and the criteria for setting fare levels of the Peak Tramways Company Limited (PTC), and gives its advice to the PTC in a timely manner. Given that Hong Kong's in-bound tourism is now facing a downward trend, I urge the Government to provide

stronger support to the peak tramway and other related tourist attractions in Hong Kong, and step up the promotion of these attractions with a view to enhancing Hong Kong's competitiveness in the regional tourism market.

Deputy President, I hope that the Government can learn from the experience of this Bill, and avoid any similar situation where it is under the pressure of the imminent expiry of the operating right under the Ordinance. After the enactment of the Ordinance, the PTC should also enhance its services and renovate its facilities expeditiously, including improving the queuing arrangement at the terminals, completing the renovation works of tramcars and providing a more spacious waiting area to improve service quality while causing minimal interference to visitors. The PTC should also raise the quality of its services and make long-term planning based on the passenger growth in the next 10 to 20 years, so as to make the century-old brand name of peak tramway even more appealing to visitors.

Deputy President, I so submit.

DR KENNETH CHAN (in Cantonese): Deputy President, I rise to speak in support of the Second Reading of the Peak Tramway (Amendment) Bill 2015 (the Bill). Deputy President, my participation in this Bills Committee has benefited me a great deal, because the Bill involves not only various policy issues but also discussions that are quite philosophical in nature. For instance, what is private ownership right? How can private ownership right enjoy adequate protection under "one country, two systems" in Hong Kong, given the existing provisions of the Basic Law and the various safeguards under the common law conventions?

To begin with, I would like to express my appreciation that throughout the entire process, the Government displayed very great patience in responding to the many questions asked by me and other members of the Bills Committee. It also held many discussions and negotiations with the Peak Tramways Company Limited (PTC), and kept us posted on the results and progress with great patience, transparency and clarity. I also managed to understand the views of the PTC management on what should be done with the proposals and arrangement under the Bill in order to provide adequate protection to the land and structures of the terminals at either ends of the tramway track. I must therefore commend the officials concerned for responding to the questions asked by members of the Bills Committee and the public with such thoroughness, high sense of responsibility and great clarity.

Deputy President, basically, my speech focuses on four aspects, and it summarizes our observations and concerns. I hope that Secretary Anthony CHEUNG can provide some additional information in his reply later on. I also hope that he can offer a full explanation on the questions or doubts raised by Members, so as to facilitate our scrutiny of the Bill at its Second Reading and Third Reading.

First, what is the peak tramway? The peak tramway was commissioned in 1888. Just now, some Members, such as Mr WONG Kwok-hing of The Hong Kong Federation of Trade Unions, still described the peak tramway as a mode of public transport. He even said that the Panel on Transport of the Legislative Council should discuss this issue and receive annual briefings on the peak tramway in the future. But the emphasis of the Bill is precisely ... The Administration, the PTC itself and representatives of the tourism sector are all of the view that the peak tramway is no longer a transport means but a tourist attraction, a major tourist attraction. This is the very first point stated and emphasized clearly in the Bill.

Today may be the last time that Secretary Anthony CHEUNG speaks on the peak tramway as Secretary for Transport and Housing. After today, he will hand over the entire responsibility to Secretary for Commerce and Economic Development Mr Gregory SO. Therefore, under the established operational mechanism of the Legislative Council, the peak tramway shall become the responsibility of the Panel on Economic Development, which is the counterpart of the Commerce and Economic Development Bureau in the Legislature, unless the Panel on Transport and the Panel on Economic Development both agree to join hands to review the performance, fares and services of the peak tramway in the future. Hence, Members who are concerned about the performance, services and other issues of the peak tramway may need to consider joining the Panel on Economic Development.

I approve of the broad direction. In fact, Members all know that very few people would still regard the peak tramway as a mode of daily transport. It has become a tourist attraction. Precisely because of this, I was especially concerned about one question during the scrutiny of the Bill: when the Chief Executive in Council and the relevant government officials of the Bureau decide who should be granted the operating right, what will be their considerations? Should the then existing operator be allowed to continue, or should another operator be awarded the right to operate this major and very significant tourist

attraction? Initially, the Government said that we should read the relevant part of the Bill. The relevant part is, of course, section 2B of the Bill, which is about the relevant matters that the Chief Executive in Council must take into account when granting the operating right. Such matters include, for example, the terms proposed or any representation made by the body corporate or company, whether the body corporate or company can satisfy us that it will be able to maintain the tramway as an important tourism and recreational facility, the financial capability of the company or body corporate applying for the operating right, and any relevant experience and performance of the company or body corporate in operating the tramway or any similar facility.

When I study the provisions, I find that all is just common sense. It goes without saying that only the capable should apply, and the operating right should only be granted to the one with proven capability. If these are not the prerequisites, what else should form the basis of our consideration? At the same time, I am very concerned about the channels for people or tourists to express their views. Therefore, I am particularly concerned about the role and position of public opinions, and I raised this point again and again in the Bills Committee. Members would probably say that this must be common sense in the process of public administration and policy formulation, and they would wonder, "How would anyone ignore public opinions or refuse to listen to people's views?" But I still want to know exactly how public opinions are gauged, collected and handled, and how the Chief Executive in Council will make a decision on whether to retain the existing operator, or to step in and introduce a new operator. How can members of the public take part in such a significant decision-making process? I am thankful to the officials of the Transport and Housing Bureau for telling members in the course of the scrutiny that the Administration would give a clear exposition of its policies. Their words can put the minds of Members at ease, for they now know that when policies are being brewed, public opinions will be given both weight and systematic expression, and when the Chief Executive in Council makes a relevant decision, public opinions will likewise be presented clearly to them for their knowledge and attention.

At first, government officials would only say that the authorities would consult the District Councils. They said that since it was all an open process, people would naturally air their views and there would also be press coverage. However, please forgive me for saying that this approach is rather passive. That is why I do appreciate the effort of the authorities to reassure us towards the latter half of the scrutiny process that in the course of discussions and before making

the final decision, they will not only consult the stakeholders and the District Councils, but will also gauge the views of the relevant Panels of the Legislative Council. Well, I would say this is also the duty of Legislative Council Members. When necessary, we will certainly conduct public hearings to collect public opinion systematically. The Administration has undertaken to present, expound and reflect the views collected in a systematic manner. This is exactly the benign interaction that the Civic Party and I look forward to seeing. This is the second observation and concern I wish to raise. I hope Secretary Anthony CHEUNG would give an appropriate response later on.

My third point is about the protection of private ownership right. As a matter of philosophy, if a place belongs to me, then it is entirely up to me, the owner, to decide how to use the place, and whether I am going to lease or sell it to someone. No third party, including the Government, can interfere with my decision. Provided that I always exercise my private ownership right sensibly, reasonably and lawfully, no "mandatory lease" or "mandatory sale" arrangement should be imposed on my property all of a sudden. The special thing about the Bill is that it contains such an arrangement. For example, in case it is necessary to change the operator, certain essential premises at the two peak tramway terminals (on the Peak and Garden Road) must be leased to the new operator. In other words, if the Government now decides to replace the operator, it can order the PTC to lease certain essential premises to the new operator at an agreed amount of rent based on the market rent. And, there is also the "mandatory sale" of certain essential equipment, including tramcars, power works or cables.

That was why during the scrutiny process, members were very insistent on compliance with the relevant provisions of the Basic Law, particularly Article 6 and Article 105. The reason is that we may actually consider many other options as a means of tackling this issue. For instance, as the peak tramway is such a major tourist facility in Hong Kong, would the Government consider the use of other methods to handle this difficult issue of private ownership right?

In the course of deliberation, we also asked the Administration and the Department of Justice to clarify certain legal technicalities and precedents in the past. We know that there are precedents. But we want to know whether there are sufficient justifications, because we must be absolutely sure that the mandatory arrangement will not arouse any dispute or lead to any judicial review in the future. In my view, nothing can be certain at this moment because there has never been any such dispute before, and we simply do not know how such a

dispute will arise in the future. After the passage of the Bill, especially when the "mandatory lease" and "mandatory sale" arrangements are enforced, will any ownership right disputes arise as we have all along worried? Therefore, I would say that we must still grope our way forward.

As some colleagues mentioned just now, the Government has some provided information about precedent cases of "mandatory lease" in the laws of Hong Kong and foreign countries, such as the Public Bus Services Ordinance (Cap. 230), the Mass Transit Railway Ordinance (Cap. 556) or the Ferry Services Ordinance (Cap. 104) of Hong Kong. However, Members should note that as the Government itself explains clearly in the same paragraph, the Government has never exercised the relevant statutory power to take over any private property, and many of these provisions in fact provide that the "mandatory lease" arrangement can only be enforced under specified circumstances, or perhaps in times of emergency or crises. The Government has made it a point to explain that the Bill should be considered in isolation, and it will not become a precedent, nor will other transport industries or services have to follow the arrangements of "mandatory lease" and "mandatory sale".

Under this circumstance, coupled with the fact that the PTC has clearly explained and confirmed its acceptance of the "mandatory lease" and "mandatory sale" arrangements, I am of the view that we can accept the proposed arrangements at this stage. Of course, we will closely follow the situation to see whether the arrangements can really be enforced in such a reasonable, just and fair manner as to protect private ownership-related rights against any damage or loss.

Therefore, it is very important that when the Chief Executive in Council makes a decision, they will keep the process highly transparent — though it is impossible for us to know the details of their deliberation as their meetings are held behind closed doors and there will be no disclosure. I also hope that the Secretary can clarify one more point in his reply later on. The Blue Bill refers to open market value, but can this address the whole series of points raised by Mr Tony TSE and the amendment moved by him accordingly? In my opinion, his concerns are not entirely without justifications. Can the relevant provisions as they are drafted provide sufficient protection? Can they adequately address the various problems which Mr Tony TSE fear may arise and also the very clear amendment he has written? This is the fourth point, and I hope Secretary Anthony CHEUNG can respond to it on behalf of the Administration later on.

Deputy President, I believe both the Civic Party and many Hong Kong people very much hope that the Bill can be passed in good time because we are running out of time. If the Legislative Council fails to pass the Bill by the end of this year, or if there is any delay, the peak tramway service will have to stop from 1 January 2016 onwards. No one would like to see this outcome.

I hope that when Members tackle this issue, they can balance different considerations and factors. It is true that judicial disputes and lawsuits may arise from the Basic Law provisions on the protection of private ownership (Though the possibility is remote, it cannot be ruled out). And, as Mr Tony TSE pointed out just now, Members may not fully understand how the adoption of open market rent will operate. Nevertheless, I am of the view that the Bill should be passed first and put on test for a period. Meanwhile, I will continue to urge the Bureau concerned — it will be the Commerce and Economic Development Bureau, or Secretary Gregory SO later — to take the proactive step of assigning officials to report to the relevant Panel of the Legislature and stakeholders, so as to increase the transparency and accountability of this common concern of all Hong Kong people. In this way, the peak tramway, a major tourist facility and Hong Kong people's pride, can be retained and continue to thrive.

I so submit.

MR FRANKIE YICK (in Cantonese): Deputy President, the Peak Tramway (Amendment) Bill 2015 (the Bill) under discussion today is in a way the second chapter of the relevant legislative amendment. The first chapter was completed two years ago. The amendment at that time focused on dealing with the flaw existing in the Peak Tramway Ordinance related to extension of operating right, and granted an interim operating right to the Peak Tramways Company Limited (PTC) for two years, so as to prevent the operating right from automatically lapsing, as this would cause a disruption of the peak tramway service. As the two years interim operating right will expire at the end of this year, the Government has proposed the Bill before summer to further rectify the flaws and defects in the Peak Tramway Ordinance. It aims to sustain the peak tramway service and avoid the substantial risk of any service disruption in the event of which the public and tourists will be affected. Though the Government's effort comes a bit late, I would still support any proactive efforts on its part to improve the ordinance.

The peak tramway has already been in service for more than a century. It is of historical significance, and not only this, it has also become a symbol of Hong Kong. The peak tramway was first built with the purpose of providing transportation to the few dozen households living on the Peak. However, with the development of the road network in the district and the introduction of other modes of public transport, the peak tramway is no longer used as a major form of transportation for the residents, despite the dense residential settlement over there. Instead, it has turned into a popular tourist attraction. At present, over 90% of the daily patronage is from tourists. Any disruption to peak tramway service will surely have implications on tourism in Hong Kong. As the peak tramway has already turned from a means of transport for residents to a tourist attraction, and the tourism component in it now carries a greater weight, the Liberal Party agrees that Bureau responsible for it should be changed from the Transport and Housing Bureau (which is in charge of transport matters) to the Commerce and Economic Development Bureau (which is in charge of matters related to tourism). The Liberal Party also hopes that the peak tramway can continue its development by linking up with other tourist facilities.

It is exactly because of the historical value and importance of the peak tramway that the Government focuses the present amendments mainly on how to sustain the smooth operation of the peak tramway, so that even if the existing operator intends to exit the market, the new operator can take over smoothly, without causing any service disruption. In this respect, the Government proposes in the legislative amendment an "exit mechanism" specifying a mandatory lease arrangement for essential premises and a mandatory sale arrangement for essential equipment.

Regarding the peak tramway, the Government owns only the land along the track and the land on which the four intermediate stations are located. The land occupied by the terminals at both ends on Garden Road terminus and the Peak and the tramcars and the track themselves are private property. However, under existing legislation, the Government does not have the authority to require the Peak Tramways Company Limited (PTC) to sell or lease the land of the two terminal sites and the relevant facilities. Therefore, in the absence of an exit mechanism, if the existing peak tramway operator wishes to exit the market, though I consider this unlikely, there is always a risk of disruption of the peak tramway service in the course of operating right transfer. I believe this is not what the people and the Government wish to see. So, the Liberal Party considers it necessary for the Government to propose an exit mechanism.

The Government proposes under the exit mechanism a mandatory lease arrangement for essential premises and a mandatory sale arrangement for essential equipment. However, I am concerned about both. Dr Kenneth CHAN has explained the worries in detail just now. We are concerned that the arrangements may violate the protection of private ownership right under Article 105 of the Basic Law. Furthermore, the Government does not seek to implement the mandatory arrangements through contractual means. Instead, this is done by legislation. Should the practice become a precedent, it will pose far-reaching implications to private ownership right. During the meetings, I repeatedly requested the Government to be prudent about the implementation of mandatory lease and mandatory sale arrangements through legislation. In order to manifest the protection of private property under Article 105 of the Basic Law, the Government should not impose extra restrictions on the inheritance of private land, otherwise it will be accused of robbing people of their property, and it will also fail to safeguard the rights of private property owners.

Even if it is a expropriation of private property, the Government must still proceed according to the law. As any leasing of relevant premises under mandatory lease arrangement will be conducted at open market rent, and the price under any mandatory sale arrangement will be determined with reference to prevailing market price, it can be said that the property right holder will not suffer any loss in this regard, but it is still not an ideal arrangement if the essential premises and equipment concerned are leased or sold under mandatory arrangements. I must emphasize the "mandatory" nature, which indicates that the transaction is not initiated by the asset holder, nor is it conducted voluntarily. Worse still, the arrangements are implemented through legislation. As the current operating right for the peak tramway will expire at the end of this year, in order to avoid a hasty decision and to ensure uninterrupted tramway service, during the discussion on legislating for mandatory lease arrangement and sale arrangement, I requested the Government to consider granting further extension of the interim operating right to the PTC for two more years first, so as to give the Council sufficient time to consider how to duly handle the transfer of property right arising from change of ownership. However, the request is not accepted by the Government.

The Government emphasizes that the mandatory arrangements for lease and sale comply with the Basic Law, and that implementing mandatory leasing or selling of essential premises by contractual agreement is not as effective as doing so by legislation, which is the only way to exert a binding effect. The Government further states that the arrangement is only applicable — only

applicable — to the special case of the peak tramway. More importantly, the PTC has also accepted the arrangement proposed by the Government. Therefore, in order to allow a smooth process in the approval of the new operating right without causing delay to the peak tramway enhancement works, I have not insisted on demanding further amendment from the Government.

The Liberal Party supports the Government's move to take the initiative to amend sections 11B and 11C in response to opinions raised by members of the Bills Committee. After the amendment, new sections will be added in respect of the mandatory lease arrangement of essential premises and the mandatory sale arrangement of essential equipment to unequivocally state that the Chief Executive in Council will not unilaterally demand a property right holder to lease or sell his asset to a specific new operator, unless the government considers that the peak tramway is faced with a risk of disruption due to a lack of appropriate new operator. This is useful in preventing excessive government intervention, as well as making it more flexible for property right holders to contact any potential new operators by themselves according to their own choice and draw up contractual terms considered reasonable to each other.

Regarding the amendment proposed by Mr Tony TSE, I understand Mr TSE's intention to further protect property right holders. However, if the amendment proposed by Mr Tony TSE is adopted and the lessee must be held responsible for any loss suffered by the lessor, without regard to whether the loss is a result of the operation after the transfer of the tramway operating right, or a result of decisions made by the Chief Executive in Council, I am afraid this requirement will only serve to discourage any potential operator from applying for the operating right. In fact, if the new operator acts according to the directions given by the Chief Executive in Council and suffers losses due to its own deficiency in business, the operator can have nothing to say; however, on top of the losses suffered by itself, if the new operator has to bear any loss suffered by the lessor due to the new operator's own deficiency in business — I emphasize again, it is referring to "any loss" — I believe that this is a very harsh condition, and no operator will be interested in applying for the said operating right. The amendment concerned has not been discussed in detail at the meetings of the Bills Committee, and I consider that it violates the Government's intent of setting up the exit mechanism and no operator will likely be interested, so the Liberal Party will not support the amendment proposed by Mr Tony TSE today.

Finally, I wish to mention our acknowledgment of the peak tramway's unquestionable commitment to strengthening its service, as we understand that the company has already proposed a \$600 million enhancement plan before the Government formally grants it the new operating right. I hope that the PTC can commence the works as soon as practicable after it secures the new operating right. As the works take time, peak tramway service may have to be suspended. Tourists travelling to and from the Peak each day will have to switch to other transport, and transport at the Peak will also be affected. While I hope that the peak tramway enhancement works can be completed as early as possible, I also call on the Government to pay more attention to the transport within the area and adopt appropriate measures to alleviate the situation.

With these remarks, Deputy President, I support the Bill.

MR KWOK WAI-KEUNG (in Cantonese): Deputy President, I speak in support of the Peak Tramway (Amendment) Bill 2015 (the Bill). In fact, in the course of scrutinizing this Bill, I tried to recall how many times I had taken the peak tramway. For 30-odd years, I should have taken the tram no more than 20 times. It is because, as many Members said earlier on, there are many ways of going to the Peak. However, I could remember each trip on the peak tramway very well because all were very important occasions. When I was small, my parents brought me to the Peak. A few years ago, I dated with my wife at the Peak. I believe that the next time when I go the Peak, I may be bringing my child along. Hence, each experience is very memorable.

The peak tramway in Hong Kong has grown with the Hong Kong people. In fact, the mere mentioning of Hong Kong will make many Hong Kong people and tourists think of Victoria Harbour and the peak tramway. To many Hong Kong people, the peak tramway witnesses the changes of Hong Kong. Formerly, the peak tramway mainly served the residents of the Mid-Levels, and it was a symbol of status. But nowadays, it has already become a popular tourist spot and a means of transportation that tourists must ride.

Deputy President, the amendments to this Ordinance include granting a 10-year operating right from 1 January 2016. To tie in with the new operating right, the Peak Tramways Company Limited (PTC) has undertaken to provide a number of improvement measures, including the provision of longer tramcars to increase the capacity, the extension of the peak tramway terminus at Garden

Road, the installation of a new signalling system, renovation of the Upper Terminus, the replacement of track rails, and so on. With the increasing number of tourists, there is a very big demand for the peak tramway services. Long queues can always be seen at the two terminals, and tourists usually have to wait for a long time. The long waiting time is highly undesirable and will affect the tourism brand of Hong Kong. While this will affect the desire of tourists to visit the Peak, the local residents' interest will also be affected due to long waiting time. I believe that if these improvement measures can be implemented, the capacity and quality of peak tramway services can be enhanced and its competitiveness can also be strengthened. This is worth our support.

Of course, we hope that these improvement projects will not affect the original characteristics and scenery of the Peak, and will not cause any damage to the natural landscape of the Peak. Besides, the extension project should also avoid occupying Government land. If the project and newly built facilities occupy Government land, the Administration will need to be deal with it according to the established mechanism, so that the public will not think that there is funnelling of benefits.

Looking back at the last two occasions when the operating right was granted, there was one in 1984 and the right was granted in the form of "10 years plus 10 years". When the right was granted in 1984, the Government received a premium payment of \$2.79 million. During the 10-year period from 2003 to 2013, the Government received a premium payment of \$36.8 million. This reflects the rapid rise in premium of land in Hong Kong. During the two-year transitional period (2014 to 2015) alone, the Government already received a premium payment of \$25 million. In other words, the premium payment in the next 10 years will be quite a big sum of money. The above information is for your reference.

Nevertheless, I would like to raise the following points. First, it is the form of "10 years plus 10 years". Why did I mention the form of "10 years plus 10 years" earlier on? It is because the operating right to be granted this time will start from January 2016. Theoretically, the operating period will expire at the end of 2025 after 10 years. However, at present, the Government has already received a request from the PTC, which wants to file an application in advance for the second 10-year operating period. I have doubts about that. Because theoretically, first of all, we must first consider its performance in the first 10 years, what areas can be improved and how its services are, and so on. After

operating for 10 years, a medium term review should be conducted before deciding whether its operating right can be extended for another 10 years. However, it seems that the PTC wants to cheat. It says that it will have to do a lot of improvement works in the future, and if the Government can grant the second 10-year operating right in advance, it will invest more resources and do better in the improvement works.

I think this is putting the cart before the horse, as this will make it difficult for us to monitor the medium term performance of the PTC. Besides, the form of "10 years plus 10 years" will become a direct grant of the operating right for 20 years. There will be such an effect. Hence, I hereby remind the authorities that next time when they are granting such kind of operating rights or renewing the contracts, they must to consider these situations carefully.

Moreover, many colleagues also mentioned earlier that the PTC was at the same time in possession of the land titles of the terminal sites at both ends of the track. From the perspective of private ownership right, they questioned how this should be handled. The mandatory lease proposal under discussion now is a rather feasible method. However, frankly speaking, is there a high chance that the PTC will hand over or transfer the operating right? In fact, we can also see that the chance is not high. Why do we still need to consider the mandatory lease proposal then? In fact to a certain extent, we hope that new competitors can be attracted to this market. According to conservative projection, competition can be introduced hopefully after 20 years.

As a matter of fact, is it easy for other competitors to enter the market? As many colleagues said earlier, the costs on trams, components, ancillary equipment or tracks alone constitute a huge sum of money. It is not easy to draw competitors to the market. On the contrary, what we have to do is to let the PTC know that it is not subject to no control. Neither should we let it act recklessly and think that it can surely operate forever. We hope that the incorporation of this provision can act as a warning, and I think this function will be more effective than its virtual function.

Finally, I also want to remind the Government that if it wants to introduce more competition in the future, the private land titles of the terminal sites at both ends of the track will be a very big obstacle. If a company wants to compete with the PTC, the PTC definitely has advantages. Because it possesses these two properties and this will make it easier to control the operating costs. Therefore, if the right is to be handled in the form of tender, there is a very high

chance that the PTC can win the tender, unless the existing PTC states that it will not operate any further, and it will transfer the operation to another company after they have successfully negotiated on the selling price. I believe that this is a more likely situation.

Nonetheless, under such circumstances, I would remind the Government that since there will be 20 years for consideration, it should consider whether it is necessary to repurchase the pieces of land at the terminals at both ends of the track — the premise is that if the Government really wants to introduce competition, it would be better to repurchase the pieces of land at the termini at both ends of the track. When there are competitors in the future, they can compete against each other fairly. Because they do not need to consider which company possesses the sites and the quotation it will offer when the sites are for lease. Of course, these are the matters which may happen 20 years later. The Government of the coming few terms will have a lot of space and time to consider them.

Besides, Deputy President, I believe that with what happened in the period from 2003 to 2013 and the operating right could not be extended for another 10 years in 2013, the Government has already learned the lesson and will be more careful. There is a very low chance that similar situation will occur. Nevertheless, under this Bill, I hope that the PTC or tramway services will not ... we can still make it. The operating right can be granted very soon so that the tramway services will not be interrupted in the interim. I believe we need to speed up the process.

Besides, I also welcome the transfer of the responsibility for renewal arrangements on the operating right of tramway services from the Secretary for Transport and Housing to the Secretary for Commerce and Economic Development. This reflects that the existing tramway services have taken an important role as a major tourist attraction. The matter is thus followed up by the Secretary for Commerce and Economic Development. I also welcome the undertaking made by the Secretary in his speech during the resumption of Second Reading debate that before granting the operating right, the views of the Legislative Council will be consulted first. As I said earlier, the peak tramway is a part of collective memory of the Hong Kong people. I hope that while preserving the original characteristics, the PTC will also keep on improving the services, with a view to providing better experience to the public and tourists.

With these remarks, I support the Bill. Thank you, Deputy President.

MR CHAN KAM-LAM (in Cantonese): Deputy President, the Peak Tramway (Amendment) Bill 2015 (the Bill) mainly seeks to, among others, provide for the grant and termination of the operating right of the peak tramway, for the mandatory lease or sale of properties that are essential to the peak tramway operation, and for the transfer of the policy responsibility for the Peak Tramway Ordinance (the Ordinance) to the Secretary for Commerce and Economic Development. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has the following view on the legislative amendments.

The original Ordinance confers on the Secretary for Transport and Housing certain powers or responsibilities, and the legislative amendments will transfer such powers and responsibilities to the Secretary for Commerce and Economic Development. We hold that this is a reasonable arrangement. The Peak is a landmark of Hong Kong. Every year millions of tourists from around the world come to Hong Kong to take the peak tram. Taking the peak tram to the Peak is an unique Hong Kong experience and also a beloved leisure activity of Hong Kong people. The peak tramway is not only a transport facility, but also a tourist and recreational facility. Hence, if the Commerce and Economic Development Bureau becomes the Policy Bureau in charge of this facility, it can more efficiently manage the facility, and the peak tramway service can be improved and the overall tourism performance can be enhanced.

An important proposal in the Bill is the formulation of an exit mechanism, which allows, when necessary, the incumbent operator to exit and be replaced by a new operator. In order to ensure that the new operator can take possession of the premises essential for operating the peak tramway, the exit mechanism will provide the legal basis for a mandatory lease arrangement (MLA) for land and related building(s) and a mandatory sale arrangement (MSA) for other properties. The property owner will be reasonably compensated. Moreover, the Bill also empowers the Chief Executive in Council to terminate the operating right before its expiry if the peak tramway operator has been in default.

In the past, the Government could only fight for favourable terms when it negotiated the terms for granting the tramway operating right with the Peak Tramways Company, Limited (PTC). After the passage of the Bill, the Government can initiate, when necessary, the exit mechanism pursuant to the law and ensure that the tramway service will not be terminated even if the negotiation falls through. As the Government will have more leeway and thus will not be so

passive in the negotiation, it will be less restrained and in a better position to fight for better terms in the negotiation and thus more effectively protect the overall interests of society.

Besides, given that there will be a mechanism for a new operator to take over, that means more competition will be introduced. Also, Chief Executive in Council will have the power to terminate an operating right before its expiry. All these will become the incentives for the incumbent operator to properly comply with the terms on which the operating right is granted, ensure the safe operation of the peak tramway and persistently enhance its peak tramway service standard. We hold that this approach is conducive to the long-term development of the peak tramway.

PTC has also proposed its future investment plan, which includes replacement of tramcars to increase carrying capacity by over 60%; substantial improvement on the two termini to expand their holding capacity; upgrading of existing systems to maintain tramcars' safety and reliability; and replacement of all track rails and structural improvement of track foundation and tramway bridges. The DAB welcomes the investment plan, but we hope that PTC can maintain effective operation and provide reasonable services during the enhancement works.

Some members have pointed out that the MLA for land and related building(s) and the MSA for related properties contained in the exit mechanism may not be able to protect the right of private property owners. We have voiced the same concern. That said, as explained by the Government, the arrangements concerned comply with Articles 6 and 105 of the Basic Law. Besides, we hold that these arrangements are an integral element to make the change of tramway operating right work. Without the MLA and MSA, the tramway service will end if PTC exits. In other words, PTC will, in effect, become the only body that may operate the peak tramway and the exit mechanism will become infeasible.

Moreover, the property owner may receive market rent for the mandatory lease of the property concerned and receive market-value compensation for mandatory sale of its properties; the property owner may also seek legal remedy through arbitration or at the Lands Tribunal. In our opinion, the right of the property owner will be sufficiently protected. The MLA and MSA can balance the interests in society and protect the right of property owners.

The DAB has the following view on the amendment proposed by Mr Tony TSE.

According to the arrangement laid down in the Bill, if the operating right changes hands, the new operator will need to rent from the incumbent operator, the PTC, the "essential premises" (that is, any premises that is considered essential to operating the tramway) which mainly involve the tramway engine room, and so on. Mr Tony TSE's amendment mainly seeks to add two requirements. First, the new operator shall pay compensation to the property owner if the former, after renting the essential premises, fails to maintain such premises in a condition suitable for operating the tramway and thereby subjecting the property owner to any loss. We agree that if the lessee fails to maintain the essential premises in a condition suitable for operating the tramway during the tenancy and the lessor is ultimately subject to any maintenance cost, the lessee should pay compensation to the lessor. That said, we hold that this arrangement can be settled during the negotiation between the lessor and lessee on the terms of the lease.

Under the present Bill, the terms of the lease are to be agreed between the lessor and the lessee and the amount of rent shall be the "open market rent" which "is to be determined in accordance with the terms of the lease". Hence, the lessor and lessee can finalize the terms on compensation when they negotiate the sum of rent and the terms of the lease. We do not believe that the two sides would have overlooked this issue in their negotiation. Moreover, the Bill also requires that if the two sides cannot reach an agreement over the sum of rent or any other terms, they can resolve the dispute through arbitration or at the Lands Tribunal. Hence, we are of the view that the present Bill has sufficiently provided for the protection of the two sides' rights and benefits and it is unnecessary to explicitly express in the Ordinance which party should pay the compensation.

The second requirement under Mr TSE's amendment further provides that the new operator shall compensate the property owner any loss suffered by the latter as a result of a mandatory lease ordered by Chief Executive in Council. We hold that the scope of this amendment is too large, which may subject the new operator to undue uncertainty and risk. For instance, the property owner may have other properties in the vicinity of his essential premises, and the valuation or prevailing rental income of such properties may be affected by the

mandatory lease order. These risks are unpredictable. Besides, fluctuation in the value or rental income of such properties may affect the property owner's other commercial arrangements or commitments or increase the property owner's borrowing cost with an external party. Should losses so incurred be included and should the new operator be liable to make compensation? We do not think so. We are concerned that such a requirement will scare away any interested party in taking over the tramway operation and ultimately hinder the smooth execution of the entire exit mechanism.

Based on the consideration above, the DAB will not support Mr TSE's amendment.

We will continue to monitor the peak tramway service and we hope that the Government will honour its commitment, that is, apart from consulting the Legislative Council on the arrangement concerning PTC's application for the extension of its operating right for a further 10 years, it will also timely inform this Council of the service performance of the peak tramway.

Deputy President, the DAB supports the Bill. I so submit.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, Mr KWOK Wai-keung has talked about how he spent time with his date on the peak tram, and this evokes my memories of the time past. But I seldom take the peak tram. I like to go to the Peak on foot instead.

Hong Kong people have a deep affection for the peak tram, and they like it very much. The Bill proposed by the Secretary for Transport and Housing ... I cannot use the word "timely" to describe it because there was already a two-year deferral. But the delay this time ... I cannot describe it as a delay because the deferral was merely meant to buy time for setting up a more comprehensive framework. The proposal at present is much more extensive than before, and an exit mechanism is introduced. It is true that the mechanism has aroused some controversy about private ownership right, and I naturally do not wish to see the triggering of the exit mechanism. In fact, the difficulty faced by the Peak Tramways Company, Limited ("PTC") in recent years is excessive patronage. An endless queue of passengers is often seen. The PTC presently needs to expand its capacity and terminal bays to increase its passenger capacity and

turnover. Indeed, the PTC sees a strong incentive to carry on its business. The specular night scene of the Victoria Harbour is well-known to everyone, and many people are fond of enjoying the night view of Hong Kong from the Peak.

The Democratic Party supports the Bill proposed this time. It is certainly right to regard the peak tramway as a tourist attraction and transfer the relevant power from Secretary for Transport and Housing, Prof Anthony CHEUNG to Secretary for Commerce and Economic Development, Mr Gregory SO. Objectively speaking, the peak tramway is too expensive as a mode of transport. It is attractive as a tourist facility, though. Probably some people may still see it as a form of transport, but I believe there are only a handful of them. Most of the people would consider it as a tourist attraction. So it is a proper move to incorporate the power and duty related to the peak tramway into the portfolio of tourism. In order to establish an integrated framework for use in the future, the amendment has proposed an exit mechanism. If the mechanism is triggered, there may be litigation. Many Members have just mentioned this and I am not going to repeat the arguments.

Though the power and duty concerned are to be handed over to another Bureau, I consider it necessary for the Government as a whole to effectively monitor the PTC. The PTC has an expansion plan, and after the signing of a new contract, it will see a relatively stable and predictable future. So, I believe it will deploy resources to increase the size of tramcars. To many people, the peak tram is a form of transport with classical elegance. A few modern elements may be added, but I hope that under the supervision of the new Bureau, the peak tram can retain its classical elegance and avoid over-modernization. It is okay to modern the two terminals a bit, but I think the people would like the vintage style more than any sweeping change. The Democratic Party supports the framework proposed at present.

Mr Tony TSE will propose an amendment later on. It is regrettable that Mr Tony TSE's amendment has not been discussed at meetings of the Bills Committee. But his concerns have already been deliberated many times by the Bills Committee — although not many meetings, only four, have been held. That said, it remains to be seen whether the amendment proposed by Mr Tony TSE is an appropriate solution. The issue raised by him, however, does call for our contemplation.

Based on our understanding at the moment, it seems that the PTC is prepared to accept the Bill. However, the Bill is not only about the relationship between the PTC and the Government. It involves the public as well. The people also wish to see that the PTC can have room for development and expansion under the current framework, so that more visitors can be attracted to take the peak tram. In the course of this development, the Government should closely monitor the PTC's resource deployment, work schedule and progress, including the planning commitment made to the Government and the promised stages of progress, and so on. Some Members have just expressed their hope that during the rebuilding, relocation or expansion stages, the suspension of peak tramway service can be compressed and shortened as much as possible. This is what we wish to see, and we all wish that the peak tramway can go on operating.

The peak tramway is a long-term project, a tourism project. Trams always are a hot spot for tourists in almost all the destinations worldwide, and they require proper conservation and preservation. Although the PTC already owns the two land lots on which the two terminals are situated, it still has to rent some portion of Government land in the future in order to have enough space to accommodate a larger terminal. Therefore, the Government also needs to closely monitor such issues as land price and future returns. We welcome the introduction of this Bill, and hope that the PTC can devote effort to its new plan as soon as practicable after the passage of the Bill, including tasks like making new investment and capacity enhancement mentioned by me just now. Secretary, we support the Bill.

Regarding the amendment proposed by Mr Tony TSE, I have just expressed my views. Mr Tony TSE has come back just now. The concerns and discussions raised by him focus on a wish that the Government can act in a cautious manner. In respect of the solutions suggested by him, we cannot offer our support at this stage, as both the Government and the PTC have offered an adequate explanation, and the PTC has already accepted the Bill. Furthermore, there are also open market price and an arbitration mechanism, and we can presume that there are ways to handle future disputes. We naturally hope that the Government and the PTC can do better under their partnership, and that the exit mechanism does not need to be triggered. The PTC is a company with rich experience, and we hope that can continue to operate properly.

With these remarks, I express support for the Bill, but we cannot support the amendment.

MS CYD HO (in Cantonese): Deputy President, I rise to speak in support of the Peak Tramway (Amendment) Bill 2015 (the Bill).

Our greatest concern in the entire matter is the land and facilities owned by many public utility bodies. While some such land and facilities are owned by the Government, some are owned by the operators providing the public services. If the service provided by an operator is unsatisfactory and a change of operator is necessary, or if the operator ceases operation of its own accord, how should we handle the ownership of such land? Apart from the Peak Tramways Company, Limited, there are other companies operating public services in Hong Kong. Some such examples are the Asia Television Limited whose prospect is still a little uncertain, and it owns many transmitting stations. The two power companies also own many properties. Of course, these companies are regulated under the relevant ordinances, but there are indeed many such public service providers in Hong Kong. If the services change hands, the handling such properties may be a difficult task.

Actually, under the old mechanism, there are procedures for the Government to buy out these properties and the price is to be agreed between the two sides. Regarding this arrangement, I hold that the properties will be better dealt with once and for all by a one-off negotiation between the two sides. However, in the case of the peak tramway, the situation is a bit special because its termini at both ends are essential for the loading and unloading of passengers and for housing mechanical engineering facilities, and there are other commercial properties on the floors above the terminals as well. It will be difficult to proceed with a partial buy-out if the Government needs to buy out any of the above assets.

We are aware that a deal has been reached between the Government and the operator to tackle this issue by means of a lease arrangement. In other words, when circumstances demand that the incumbent service provider ceases to operate the tramway service, the service may be transferred to the next operator by a lease arrangement, that is, simply by an agreement to lease the parts of the properties essential for and directly related to the operation of the peak tramway (such as the platforms and the ticketing offices) to the next operator. The Bill also proposes that this arrangement be made at market rent and at a term not as short as two or three years. According to the Administration's reply to our question on the procedural matters, the lease will be at least 10 or even 20 years.

However, how the market rent should be set and how dispute, if any, over the market rent between the two sides should be resolved remain our concerns. Besides, if the properties are dealt with by a mandatory lease arrangement, rather than by a buy-out by the Government and a transfer to the new operator through tender, a new round of negotiation and a new tug-of-war process will have to start afresh at each change of operator. I hold that this is not desirable. Given that other public service providers also need to face this dilemma, that is, the need to respect the right of private ownership and to have a mechanism for change of operator to maintain service standard, how the two sides settle on an optimal solution will present a challenge to us all.

During the Bills Committee's deliberation of the Bill, some members raised the feasibility of adding a term in the land lease to provide for an automatic transfer of ownership of the land or other facilities concerned to the Government if the operator concerned fails to provide satisfactory services. Of course, in the course of the scrutiny, members have come to the conclusion that the land lease may not be an appropriate medium to resolve this matter.

To sum up, I hold that the mandatory lease arrangement is only a stop-gap mechanism. As I have said just now, the arrangement may only be efficient when the operation changes hands for the first time to facilitate the incumbent and future operators to negotiate the rent in the lease. If the operation changes hands for a second or even third time, it will be far more straightforward and efficient to let the Government make a one-off grant or compensation to permanently buy out the ownership of the properties and land concerned for the future operator to take over through tender, so as to continue the service provision.

Deputy President, we will vote in support of the Bill and we, the Labour Party, hopes that the authorities can figure out a long-term solution to this issue as it concerns not only the peak tramway but also other public service providers which may also run into similar situations. We urge the Secretary to continue to examine and review this issue.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): If not, I now call upon the Secretary for Transport and Housing to reply. The debate will come to a close after the Secretary has replied.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Deputy President, first of all, I wish to thank the Chairman of the Bills Committee on Peak Tramway (Amendment) Bill 2015 ("Bills Committee"), Mr Jeffrey LAM, and members of the Bills Committee for their efforts, which made it possible to complete the scrutiny of the Peak Tramway (Amendment) Bill 2015 ("the Bill") smoothly. My appreciation also goes to those Members who have spoken and put forward their views in support of the resumption of the Second Reading of the Bill just now. I must thank them particularly for their views on the mandatory lease arrangement to be executed in case the operating right needs to change hands.

In 2013, we explained to the Legislative Council that since the existing provisions under the Peak Tramway Ordinance ("the Ordinance") did not provide for any post-2013 arrangements, the Government needed to adopt a two-stage approach to handle the long-term arrangements for the peak tramway and the legislative amendments required. We finished the first stage of work in 2013. Following the amendment to the Ordinance in December 2013, the Peak Tramways Company, Limited ("PTC") was granted a two-year interim operating right. The interim operating right will expire at the end of this year. We are now proceeding with the tasks under the second stage as planned, that is, to further amend the Ordinance to provide for the long-term arrangements for the peak tramway, so as to facilitate its continued operation after the expiry of the interim operating right by the end of this year. The major proposals in the Bill can respond to Members' major concerns raised in the past.

(THE PRESIDENT resumed the Chair)

The Bill has two major purposes. First, it seeks to amend the Ordinance to provide that the Chief Executive in Council may grant the operating right from 1 January 2016 onwards or thereafter to any suitable operator in any manner that the Chief Executive in Council thinks fit, and each operating right should last not more than 10 years. Moreover, if the original operator applies for an extension

and submits evidence on its upgrading plan to the Chief Executive in Council and thus satisfies the Chief Executive in Council that it is committed to and has the ability to undertake the upgrading plan to maintain the peak tramway as an important tourism and recreational facility, the Chief Executive in Council may extend the operating right of the original operator for a further period of not exceeding 10 years before its expiry. In other words, the operating right will be granted in a "10 years-plus-10 years" manner, and such power may be used repeatedly.

The second purpose of the Bill is to provide for an exit mechanism in the event that the operating right has to change hands. The peak tramway is a unique facility in Hong Kong. Members have mentioned that its ownership title is also very unique. At present, the two terminal sites on Garden Road and the Peak, the structures on the terminal sites, as well as other assets essential to the operation of the peak tramway (such as the tram track, tramcars, and power and haulage systems) are all owned by the PTC, but its four intermediate stations are located on Government land. All the abovementioned assets and land would be indispensable to the continued operation of the peak tramway. For that reason, the Bill stipulates that the exit mechanism can be triggered in the event that the operating right changes hands, and the purpose is to ensure the orderly exit and handover of the operating right on the basis of the law, and to minimize the risk of service disruption of the peak tramway.

As to the exit mechanism, when the original operator is about to exit and if the Chief Executive in Council considers it necessary — that is, when a risk of service disruption of the peak tramway is imminent — the Chief Executive in Council may order the owner to effect a mandatory lease of any land, structure, or building that is considered by the Chief Executive in Council to be essential to operating the tramway ("essential premises", as defined in the Bill), and order the owner to effect a mandatory sale of any tramcar, motive power works, plant, machinery, apparatus or article that is considered by the Chief Executive in Council to be essential to operating the tramway ("essential equipment", as defined in the Bill). Generally speaking, the lease and sale arrangement for the essential premises and essential equipment will be a matter of negotiation between the asset owner and the new operator. A mandatory lease/sale order will be made by the Chief Executive in Council only if the two parties fail to reach an agreement and the peak tramway service may thus be affected or even disrupted. Under the mandatory lease arrangement, the asset owner will receive the market rent. Real value compensation will be made to the asset owner in the

case of a mandatory sale. Dispute, if any, over the rent or the sum of compensation will be resolved at the Lands Tribunal, or subject to arbitration with the consent of both parties. Pending settlement of the dispute according to the law, the amended Ordinance provides for the new operator to take possession of the land and assets first to ensure a smooth handover and to avoid service disruption of the peak tramway.

The peak tramway has been in operation since 1888. Its initial purpose was to serve a hotel at the Peak operated by the same company. It subsequently became a form of public transport serving the Mid-levels. Nevertheless, in the wake of the development of the public transport service and road network between the Peak and Mid-levels, the peak tramway has basically become a tourism and recreational facility since the 1980s. In view of that, the definition of "Secretary" will consequentially be updated to the "Secretary for Commerce and Economic Development", thereby transferring the policy power and responsibility of the "Secretary for Transport and Housing" to the former. In the future, different bureaux and departments will co-operate with each other and make cross-departmental efforts in various policy areas for the smooth operation of the peak tramway.

Overall speaking, the Bills Committee supports the abovementioned proposed legal framework. In the course of scrutiny, several Members, including Mr Tony TSE, showed their concerns about the mandatory lease arrangement for the essential premises. Members were concerned about the legal protection of private ownership right. Their concern is fully justified and we can fully understand. During the deliberation of the Bills Committee, our colleagues from the Transport and Housing Bureau, the Department of Justice and the Lands Department submitted four written replies and attended four meetings of the Bills Committee to explain the merits and feasibility of the mandatory lease arrangement proposed by the Government in terms of its legality, implementation and effectiveness. Now I am going to take this opportunity to elucidate this point in detail.

During the discussion of the Bills Committee on the mandatory lease arrangement, Members generally acknowledged the need to put in place an exit mechanism in order to avoid a disruption in peak tramway service. And, the mechanism should cover the arrangements for the proper use of essential premises and for the transfer of private properties, so as to ensure that the operating right of the peak tramway can change hands where necessary and the

handover arrangements (including the right of the new operator to use the premises essential to peak tramway operation) shall be executed effectively. For that reason, in case the lessor (the asset owner) and the lessee (the new operator) cannot reach an agreement on the leasing of the essential premises, the Chief Executive in Council may exercise the power to make orders to effect a mandatory lease of premises. The mandatory lease arrangement proposed in the Bill can ensure that the asset owner can receive the rent of essential premises at market value each time the essential premises are leased. That approach is consistent with Articles 6 and 105 of the Basic Law concerning the protection of the right of private ownership. Moreover, according to new section 11B(6), when the mandatory lease orders come into effect, the lessee may take possession of the essential premises in accordance with the Ordinance and the terms of the operating right granted to the lessee; this can ensure that the entry of a new operator would not be delayed due to a delay in finalizing the terms of leasing the essential premises. This will prevent a major risk of service interruption during the transfer of the operating right. The remaining parts under the lease arrangement, such as the actual amount of rent at market rate, as well as the detailed and specific terms of leasing the essential premises, they will be negotiated by the lessor and the lessee on their own accord and there will be no government intervention at all. Should there be any dispute in respect of the market rent or other leasing terms, the Bill has put in place an appropriate mechanism to deal with it.

Some Members asked whether the new operator could be asked to purchase the two terminal sites and related premises upon its entry. We consider that undesirable. First of all, the effective execution of the exit mechanism depends on the right to use the essential premises, not ownership. The mandatory lease arrangement recommend by us can already achieve the desired result. In addition, if the new operator is required to purchase the essential premises upon entry (including the two terminal sites), it would have to pay a hefty sum. This will raise the entry threshold, and it will be difficult to initiate the exit mechanism in case of need. If the Government were to fund the purchase of the essential premises, a significant sum of public fund would be involved, and if this is not explicitly stated in the legislation, it is also difficult to put the idea into practice.

In fact, the existing owner of the essential premises (the PTC) has expressed its consent to the proposed mandatory lease arrangement, but it also has strong reservations about any mandatory sale of the essential premises. Nevertheless, the Bill does not prohibit the owner from selling the essential

premises. In other words, if the owner has the intention to sell the essential premises and the new operator has the intention to acquire them, then both parties may themselves hold negotiations and reach an agreement. In that case, it will not be necessary for the Chief Executive in Council to make a mandatory lease order.

Some Members asked about the mandatory lease arrangement and whether it could be implemented through non-legislative means, such as through land lease modification. We have studied these suggestions and consider them infeasible. There are two major reasons:

First of all, the land leases for the terminal sites are contracts between the Government and the holder of the terminal sites (the PTC). As with all contracts, lease provisions generally cannot have any binding effect on non-contracting parties. As the new peak tramway operator is a non-contracting party, even if the site holder agrees to modify the land leases of the two terminal sites, they will not be legally binding on the new operator. As such, the requirement for the lessee under the mandatory lease arrangement to pay market rent, as well as the mechanism to resolve disputes over the terms under the mandatory lease, which is intended to be binding on both parties, would become ineffectual.

Furthermore, the mandatory lease arrangement can only be implemented through land lease modification with the consent of both contracting parties. However, the existing holder (the PTC) expressed at the meeting of the Bills Committee on 29 June this year that the implementation of any mandatory lease arrangement through land lease modification was undesirable. It is also uncertain if all the terms under the land lease as modified are binding to the PTC's successor in land title even if the Government and PTC have reached an agreement on land lease modification. This involves complex legal issues. There is so far no case law under the common law that provides a clear answer to this question.

There are views that the Government may introduce mandatory lease provisions as part of the terms of the operating right to bind the new operator through negotiations. But this means that it may necessitate negotiations with each new operator concerning the lease arrangement for the essential premises every time the operating right changes hand. Since the outcome of each

negotiation cannot be predicted, such systemic uncertainty may cast significant doubt on the exit arrangement and is not conducive to maintaining the continuity of the peak tramway service. Thus the Government considers it undesirable.

Some Members raised the possibility of making reference to the Deed of Mutual Covenant ("DMC") approach as an alternative to implement a mandatory lease arrangement with legislative power. As far as the DMC approach is concerned, all co-owners are bound to observe the land-related covenants in the DMC by virtue of section 41 of the Conveyancing and Property Ordinance. Nevertheless, the tenants of the co-owners are only bound to comply with the restrictive covenants, not the positive covenants. For instance, the property manager may take action against a tenant directly if the latter is in breach of the DMC provision that prohibits pet-keeping (which is a restrictive covenant). Yet, if a tenant is in breach of a positive covenant, such as failing to pay management fees on time, the property manager can only take separate actions against the co-owner. This is because the tenant is not a contracting party to the DMC.

For that reason, if the mandatory lease arrangement is implemented on the model of the DMC approach, given that the lessee (the new operator) is not a contracting party to the so-called DMC, the Government cannot take any action against the lessee if the lessee does not agree to pay market rent. This means that if the exit mechanism is triggered when the operating right changes hands, the asset holder would have to negotiate with the new operator, and the lease arrangement can only be reached upon mutual agreement. That is to say, the exit mechanism, if triggered, may fail if the new operator does not accept such a requirement. This is not conducive to maintaining the long-term stability of the peak tramway service, and will defeat the very purpose of putting in place an exit mechanism. Moreover, there are certain powers that cannot be conferred by way of contracts and must be conferred by law, such as empowering the Lands Tribunal to handle disputes (including disputes over the rental amount) under the lease arrangement as proposed in the Bill.

President, in view of the above considerations, the mandatory lease arrangement proposed by us is the most viable and desirable option, which is also the most effective way and the appropriate point of balance to ensure that all relevant parties (including the PTC, parties interested in operating the peak tramway service and general public) can clearly understand the certainty of the relevant exit and entry arrangements, both now and in the future.

Besides, Members are concerned as to whether the mandatory lease of private property through legislative means will become a precedent. It is worth noting that this is a Bill proposing legislative amendments, not a court verdict. All of the amendments in the Bill are only applicable to the operation of the peak tramway, and each legislative amendment will be subject to Legislative Council's scrutiny on a case-by-case basis, and will only take effect after it has been passed by the Legislative Council. For that reason, no precedent will be set insofar as this legislative amendment is concerned.

Mr WONG Kwok-hing has mentioned the protection of employees in the event that the peak tramway service changes hand. The long-standing position of the Government is that there must be no interruption to the peak tramway service and there must be smooth handover. For that reason, we will keep a close watch on all matters in the event that the peak tramway service changes hand in the future. We will also require the new operator to deal with all matters from the perspective of a seamless handover.

President, in response to suggestions raised by Members during the scrutiny of the Bill, the Government proposes to move Committee stage amendments to the Bill to make three technical amendments. First, we propose to add a provision to section 2C of the Bill to specify that the Chief Executive in Council must determine an application for the operating right without unreasonable delay; second, we propose to replace the Chinese text of "維持" with "維修保養" in section 8A(a); and lastly, in order to clearly reflect the policy intent of the Bill, we propose to add a provision to sections 11B and 11C respectively to stipulate that the Chief Executive in Council shall not exercise the power to order a mandatory lease or sale unless the Chief Executive in Council is satisfied that there is a substantial risk that the operation of the tramway will be disrupted if such power is not exercised.

With regard to the amendment raised by Mr Tony TSE, I will provide my further and specific response during the Committee stage.

President, we consulted the Legislative Council's Panel on Economic Development in March 2015 on the Bill and the operating right commencing January 2016. The Panel basically supported the major legislative amendments proposed and the proposed informal negotiation between the Government and the

PTC in relation to the arrangement of granting the PTC a 10-year operating right commencing 1 January 2016. The Bills Committee noted the said arrangement at its meeting.

If the Bill is passed by the Legislative Council today, the Government will commence formal negotiation with the PTC on the terms relating to the new operating right. A 10-year operating right commencing 1 January 2016 as per the amended legal framework would be granted to the PTC, subject to the agreement between the Government and the PTC on its terms and the Chief Executive in Council's consent. The terms will mainly include matters concerning the PTC's payment of the premium for operating the peak tramway service on Government land. The Government will make the announcement once the Chief Executive in Council has made a decision. However, if it turns out that the Government and the PTC cannot agree on the new terms of the operating right, the Government will grant the operating right through tendering in accordance with the Ordinance as amended.

Upon the granting of this 10-year operating right commencing 1 January 2016 by the Chief Executive in Council in accordance with the Ordinance as amended, the PTC can then formally apply for a 10-year extension of it (10 years-plus-10 years) alongside the submission of the upgrading plan with proven feasibility. If the Chief Executive in Council, upon receiving information submitted by the PTC, is satisfied that PTC is committed to undertaking the upgrading plan and has the capability to do so, the operating right will then be extended by 10 years. I have to emphasize that this "10 years-plus-10 years" arrangement is independent of the second 10-year scheme. According to the Bill, the application for a second 10-year operating right can be made three years before the expiry of the first 10-year operating right.

President, during the examination of the Bill, Members raised concerns about whether the public would be consulted on the granting of an operating right. I have to explain here that as a general practice, the Legislative Council will be consulted before a recommendation is made to the Chief Executive in Council on the granting of the operating right. The Government will take into account all views obtained and will submit them to the Chief Executive in Council for consideration. According to the proposed section 2B(3) of the Bill, the Chief Executive in Council must take into account all relevant matters,

including public views, when it decides whether to grant the operating right to a body corporate. Of course, the legislature is also an important platform for the reflection of public opinions. The Government has completed the consultation exercise in relation to the proposed granting of a 10-year operating right commencing 1 January 2016 to the PTC. Just now Members put forward views about the service upgrading plan, and the views will be taken into account in our assessment. If the PTC applies for the second 10-year operating right later, we will consult the Legislative Council in a timely manner. At that time, we will put forward the application together with the PTC's detailed upgrading plan — of course, Legislative Council may convene a public hearing and gauge views from society. In the meantime, the Government will report to the Legislative Council the performance of peak tramway service at an appropriate juncture, such as before the grant or extension of an operating right.

President, I move the resumption of the Second Reading of the Bill and implore Members to support its passage.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Peak Tramway (Amendment) Bill 2015 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Peak Tramway (Amendment) Bill 2015 .

Council went into Committee.

Committee Stage

CHAIRMAN (in Cantonese): Committee stage. Council is now in Committee.

PEAK TRAMWAY (AMENDMENT) BILL 2015

CHAIRMAN (in Cantonese): Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Peak Tramway (Amendment) Bill 2015.

CLERK (in Cantonese): Clauses 1 to 5, 7 to 12, 14 and 16 to 27.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the clauses read out just now stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Clauses 6, 13 and 15.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, I move my amendments to clauses 6, 13 and 15. The three amendments are moved on the advice of the Bills Committee to introduce three technical changes.

Firstly, we propose to add a provision to new section 2C of the Bill to specify that the Chief Executive in Council must determine an application for the operating right without unreasonable delay. Section 70 of the Interpretation and General Clauses Ordinance provides, "Where no time is prescribed or allowed within which any thing shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises." Therefore, the Chief Executive in Council must handle matters in a reasonable manner and shall not put up unreasonable delay in the process. An important objective of the current legislative amendment exercise is to ensure there shall be no interruption of the peak tramway service. The Government will act accordingly to meet this objective when granting new operating rights in the future and will not put up unreasonable delay. However, taking into account Members' concern, we propose adding a provision to specify the original policy intent.

Secondly, having made reference to Members' views on the Chinese text of new section 8A(a) of the Bill, we now propose to replace "維持" in the provision with "維修保養" in order to enhance the accuracy of the expression.

Thirdly, as we have repeatedly explained at the meetings of the Bills Committee, the Government's original intent is that the Chief Executive in Council shall exercise its power under new sections 11B and 11C of the Bill to order mandatory lease and mandatory sale only if it is necessary to do so (as when the lessor and lessee cannot agree on the lease arrangement of the "essential premises" and the sale arrangement of the "essential equipment", and this will have the effect of causing the risk of disrupting the tramway service). The Government has no objection to adding a provision in the Bill as suggested by Members to expressly state the above policy intent. We now propose that a provision be added respectively to new sections 11B and 11C under the Bill to stipulate that the power to order mandatory lease or mandatory sale must not be exercised unless the Chief Executive in Council is satisfied that there is a substantial risk that the operation of the tramway will be disrupted if no such order is made.

The three amendments can fully reflect the deliberations of the Bills Committee and have its support. I call upon Members to support the amendments.

Proposed amendments

Clause 6 (see Annex I)

Clause 13 (see Annex I)

Clause 15 (see Annex I)

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendments moved by the Secretary for Transport and Housing be passed. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the amendments passed.

CLERK (in Cantonese): Clauses 6 and 13 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 6 and 13 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): Mr Tony TSE has given notice to move his amendment, as set out in the Appendix to the Script, to amend clause 15.

Members may now proceed to a joint debate on the relevant part of clause 15 and Mr Tony TSE's amendment.

Mr Tony TSE, you may now move your amendment.

MR TONY TSE (in Cantonese): Chairman, I move my amendment, as set out in the Appendix to the Script, to further amend clause 15.

Chairman, I propose this amendment with the intention of speaking up for justice. As I already said during the resumption of the Second Reading debate on the Peak Tramway (Amendment) Bill 2015 (the Bill), the Bill contains certain proposals of great concern, including the exit mechanism for preventing the monopolistic operation of the tramway by one single operator and also for ensuring the smooth transfer of the operating right when necessary; the implementation of a mandatory lease arrangement for the essential premises (namely, any land, structure, or building that is considered to be essential to operating the tramway); and the determination of rents payable to the lessor for the essential premises under mandatory lease.

Under the proposed mandatory lease arrangement, the owner will be seriously deprived of its right to choose and to make decisions. Besides, the scope of consideration for determining the rents for the essential premises under mandatory lease is too narrow, so narrow that it utterly cannot fully reflect the owner's possible loss arising from the mandatory lease of the essential premises. At the same time, the Bill also imposes additional legal responsibilities on the lessor. One such responsibility is that the lessor must ensure that when the lessee takes possession of the essential premises, the premises are in a condition that is suitable for operating the tramway.

In my view, the absence of any appropriate provisions in the Bill to compensate the lessor for fulfilling such requirements is unfair and unreasonable. However, after balancing the overall interests of society, I will accept the Bill, so as to ensure public interests and the continued operation of the tramway. But I propose to add certain provisions, so that the owner can receive reasonable protection for its loss arising from the mandatory lease of the essential premises.

Chairman, my amendment only proposes to amend clause 15 of the Bill (namely, "Mandatory lease of essential premises"), so that the owner's private property rights can be duly and reasonably protected. I suggest that the proposed section 11B(9) be amended to stipulate that apart from paying market rents for the essential premises under mandatory lease, the lessee must also pay to the lessor certain corresponding sums (if any) as follows. Except for reasons attributed to the lessor, the lessee shall pay to the lessor "an amount equal to any loss or damage suffered by the lessor as a result of the lessee failing to maintain the essential premises in a condition that is suitable for operating the tramway in accordance with this Ordinance or the terms of the operating right granted to the lessee under section 2B(1) or (5)"; and "an amount equal to any other loss or damage suffered by the lessor as a result of any power exercised by the Chief Executive in Council under this section" — "this section" here means clause 15 of the Bill. What is mainly involved is tenancy duration, tenancy renewal, the lands and properties for lease, and the lessee's right to choose and to end a tenancy.

The original provision in the Bill only ensures that the lessor may charge market rents for the essential premises under mandatory lease. At present, the computation and determination of market rents may follow an internationally recognized standard and definition. According to the definition in the Valuation

Standards on Properties issued by The Hong Kong Institute of Surveyors and also the International Valuation Standards published by The International Valuation Standards Council, "market rent" refers to — I now quote the definition in English — "the estimated amount for which a property would be leased on the valuation date between a willing lessor and a willing lessee on appropriate lease terms in an arm's-length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently, and without compulsion".

The Bill expressly provides for the mandatory lease of the essential premises. Regardless of its will, the lessor must still lease the premises under the law. Even if we assume that the lessor agrees to lease the premises around the time of rent estimation, and the lands and buildings for lease have undergone proper marketing — we can make such assumptions — the area (namely, the essential premises) to be leased must still be determined by the Chief Executive in Council. Speaking of other losses suffered by the lessor due to the mandatory lease of the essential premises, the Bill does not contain any provisions to provide the owner with any relevant protection and compensation.

Chairman, under the mandatory lease arrangement for the essential premises, the owner may be required to lease only part of the lands and buildings when necessary. This may jeopardize the economic benefits and value of the remaining lands or buildings and in turn incur loss to the lessor (or the owner). Moreover, the Bill only empowers the owner to charge market rents for the essential premises. Besides, the owner of the essential premises must agree to any proposed alteration to the structure of the essential premises necessitated by the operation of the tramway. And, even if the new operator does not comply with certain lease terms, the lessor must allow the tenancy to continue because tenancy duration, termination and renewal are all determined by the Chief Executive in Council. All these requirements under the mandatory lease arrangement for the essential premises may incur loss to the lessor (or the owner). But the market rents payable for the essential premises are unable to cover its loss.

For these reasons, I think that the scope of consideration for computing the rents for the essential premises under mandatory lease should be expanded, so that in addition to the market rents for the essential premises, the lessor can also receive protection and reasonable compensation for its other losses arising from the mandatory lease of the essential premises.

In addition, for the purpose of ensuring the smooth transfer of the right to operate the peak tramway and maintaining the tramway service, the Bill confers a number of powers on the Chief Executive in Council, including the granting of the operating right to a suitable body corporate for a maximum of 10 years, and also the extension of such right. At the expiry or termination of the operating right, the Chief Executive in Council may also make an order mandating the owner's lease of the essential premises to a new tramway operator.

Throughout the entire mandatory lease process, the owner of the essential premises remains totally passive, as it cannot make its own choices and decisions. The lessor cannot decide whether to lease the premises or not; it cannot choose the lessee; it cannot determine the tenancy duration; and it cannot choose whether to renew the tenancy or not. It is totally deprived of the legitimate rights of a property owner in a normal free market. This is utterly unfair and unreasonable to the lessor (or the owner). Regarding all these issues, I do not think that merely allowing the lessor (or the owner) to charge market rents for the essential premises can fully compensate for its loss.

Chairman, clause 15 of the Government's Bill proposes to add section 11B(10). This section stipulates that "[t]he lessor must ensure that when the lessee takes possession of the essential premises, the premises are in a condition that is suitable for operating the tramway". First, the Peak Tramways Company Limited (PTC) is the existing operator of the peak tramway and also the owner of the sites and buildings at the two termini of the peak tramway. At present, it is all right to impose on the lessor the responsibilities of maintaining and restoring the essential premises because the lessor and the operator are essentially one and the same company and enterprise. Precisely for this reason, the PTC certainly has not raised any opposition, according to the Secretary.

Nevertheless, if a new operator takes over in the future and fails to properly maintain the essential premises leased to it during the effective period of its operating right, the lessor (or the owner) shall bear the responsibility for the lessee's default in this regard as stipulated by the Bill, and it must undertake repairs and restoration for the essential premises. The lessor might have leased the essential premises unwillingly at the beginning, and now the Bill stipulates that the lessor must bear the responsibilities for the lessee's default. I think this is totally unfair and against justice.

The statutory responsibility of ensuring that the premises are in a condition suitable for operating the tramway imposed by a Bill's provision on the lessor will inevitably cause loss and damage to the lessor. So, I think a provision must be added to the proposed section 11B(9) to stipulate that the lessee must pay to the lessor an amount equal to any loss or damage suffered by the lessor as a result of maintaining the essential premises in a condition that is suitable for operating the tramway. The purpose is to duly protect its private property rights.

Chairman, as I said in my earlier speech, I propose this amendment for the sake of upholding justice, and my intention is to provide reasonable protection for individual rights. This is reasonable and justified. I hope Members can support my amendment and in turn strengthen the protection for private property rights.

Chairman, I so submit.

Proposed amendment

Clause 15 (see Annex I)

MR YIU SI-WING (in Cantonese): Chairman, I support the amendment moved by Mr Tony TSE.

Another major change brought about by the Peak Tramway (Amendment) Bill 2015 (the Bill) is the incorporation of an "exit mechanism". If the peak tramway operator is in default, the operating right can be terminated before the expiry date. The Chief Executive in Council has the right to request the original operator to surrender the operating right and mandatorily require the original operator to lease the relevant land and structures to the new operator. In view of the proposal on incorporating the mandatory lease arrangement into the Bill, some Members have pointed out that this may affect the provisions of the Basic Law on the protection of private ownership right. Although the Government has responded that the proposed mandatory lease arrangement is consistent with Article 6 and Article 105 of the Basic Law on the protection of private ownership right, I am still of the view that due to the mandatory lease arrangement, it is necessary to increase the clarity of the provisions of the Ordinance.

At present, the Peak Tramways Company, Limited ("PTC", which is also the lessor) owns the land titles of the peak tram terminals on the Peak and the foothill. If the private land and the premises for operating peak tramway services are to be mandatorily rented to the new operator, this has to be handled carefully to avoid any infringement of private ownership right. In order to better ensure that the lessor (or the PTC) will suffer any losses due to the Government's policy mistakes, Mr Tony TSE has proposed an amendment, and I give my support to it for the following reasons:

First, under normal circumstances, a business contract should be concluded by both parties through negotiation without the interference of any third party. The proposed mandatory lease arrangement is however a form administrative intervention from a third party. And, the third party provided for in the Bill happens to be the Chief Executive in Council, which is the highest authority. Since the peak tramway is a tourist facility of public concern, the Government may well be pressured by public opinions to get quick results and compel the lessor to accept unreasonable contract terms in the mandatory lease by the original operator. Therefore, the new Ordinance should be written as clearly as possible to ensure the sufficient protection of private ownership right.

Second, the proposed section 11B(8) the Bill provides that the lessee needs to "(a) use the essential premises for the undertaking; and (b) maintain the premises in a condition that is appropriate for use for the undertaking." However, the Bill does not clearly specify one thing. Suppose the lessee taking over the undertaking fails to operate the peak tramway service in accordance with the Ordinance and quits, then who should be responsible for maintenance and restoration if damage of the relevant premises rendering the continuation of the peak tramway service impossible is detected and the new operator is unwilling to bear the responsibility for one reason?

The Mr Tony TSE's amendment is to add item (b) to section 11B(9) to specify that the lessee must compensate the lessor for the latter's loss due to this cause. This is based on protecting the rights and interests of the lessor under the mandatory lease arrangement. This approach is logical and reasonable.

Third, regarding the concept of "essential premises" mentioned in the existing Ordinance, the stipulation of the Bill is not clear. It only states that essential premises "means any land, structure or building that is considered by the Chief Executive in Council to be essential to operating the tramway", but it does

not mention the scope of essential premises. The proposed section 11B(9) in the original Bill provides that the lessee must pay rent to the lessor for the essential premises of an amount equal to the open market rent, but as there is no clear definition of "essential premises", the lessor may suffer loss resulting from inappropriate arrangements or allocation regarding the essential premises.

In the proposed section 11B(9)(c), Mr Tony TSE has added a provision that the lessee has to be responsible for the payment of an amount equal to any loss suffered by the lessor due to the mandatory lease arrangement. I think this is reasonable. Imagine if the premises of the PTC were unreasonably forced to be rented under the request of the Government and losses are incurred, naturally the lessee is the person who benefits. It is of course reasonable to recover the losses.

Due to the above reasons, I support the amendment of Mr Tony TSE by adding section 11B(9) which further clarifies the responsibility for compensation.

Chairman, I so submit.

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

(No Member indicated a wish to speak)

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): Chairman, Mr Tony TSE has proposed an amendment to new section 11B(9) of the Peak Tramway (Amendment) Bill 2015 (the Bill), which seeks to require the lessee under the mandatory lease arrangement to pay open market rent. We have examined Mr TSE's amendment in detail but do not agree to its premise, that is, it is necessary to include additional provisions because even though open market rent is paid to the lessor (the asset holder) under a mandatory lease order issued by the Chief Executive in Council, the lessor may still suffer other loss or damage.

Mr TSE's amendment retains the Government's suggestion of requiring the new operator (that is, the lessee under the mandatory lease arrangement) to pay open market rent to the owner of essential premises (that is, the lessor). But his amendment includes additional provisions to further require the lessee to pay an

extra amount to the lessor under two circumstances in respect of the leasing of the essential premises: first, an amount for the loss or damage suffered by the lessor as a result of the lessee failing to maintain the essential premises in a condition that is suitable for operating the tramway in accordance with the terms of the operating right granted to the lessee; second, an amount for the loss or damage suffered by the lessor as a result of any power exercised by the Chief Executive in Council (presumably referring to the power to make an order of mandatory lease).

Mr TSE's amendment understandably aims to protect the rights and interests of the owner of essential premises. In new sections 11B and 11D of the Bill, regarding the mandatory lease arrangement in the exit mechanism to be activated when the operating right changes hands, the Government clearly stipulates that the new operator (that is, the lessee) must pay open market rent to the lessor, and that the terms of the mandatory lease are to be agreed between the lessor and the lessee. Furthermore, the mechanism for resolving disagreement over the rent payable and the terms of lease is also provided for therein. All these requirements are likewise meant to protect the legitimate rights and interests of the asset holder. However, as far as legislative principles are concerned, the Government cannot agree to the rationale behind Mr TSE's amendment, that is, the lessor may still suffer loss or damage as a result of the mandatory lease ordered by the Chief Executive in Council even though open market rent is paid. I shall offer a more detailed explanation in this regard.

In the past, the Legislative Council Panel on Economic Development and Panel on Transport both clearly indicated that they did not wish to see any disruption of the peak tramway service, but they at the same time considered it necessary to introduce an exit mechanism allowing for the transfer of the operating right when necessary, so as to avoid any *de facto* monopoly arising from the absence of an exit mechanism under the law. When scrutinizing the Bill, the Bills Committee also agreed that it was necessary to introduce an exit mechanism that could satisfactorily handle the arrangement for using essential premises.

Actually, if we are to ensure the smooth transfer of the operating right and the entry of the new operator at the required time, we must consider the factor of time. An exit mechanism with mandatory lease arrangement for essential premises can precisely ensure that exit and the transfer of operating right can proceed orderly on the basis of the law, thereby minimizing the risk of any peak

tramway service disruption. For this reason, we stipulate in the Bill that the terms of the mandatory lease are to be agreed between the lessor and the lessee, but the lessee is required to pay open market rent to the lessor. Furthermore, in case of disagreement over the rent payable and the terms of lease, the new operator may first take possession of the asset under the amended Peak Tramway Ordinance (the Ordinance) pending the settlement of the dispute under the law. All this is meant to ensure that the transfer of the operating right can take place smoothly. On the one hand, this can ensure that the transfer will not be thwarted by the inco-operation of one side, and the peak tramway service will not be disrupted. On the other hand, this can also ensure that the other side will not be pressured by time to conclude a rent agreement.

As pointed out by the Lands Department after making reference to the Royal Institution of Chartered Surveyors Valuation — Professional Standards 2014 (the Red Book), open market rent should be the estimated value of an asset transaction on the valuation date, and the valuation amount will not be affected by whether the transaction is mandatory. In other words, although there may be the mandatory lease of essential premises under the Bill, the valuation of rent should not be affected by whether the lease arrangement is mandatory. The provisions in the Bill requiring the payment of open market rent to the asset holder under the mandatory lease of the essential premises is intended precisely to ensure that the interests of the asset holder will not be adversely affected by the mandatory lease arrangement for his private assets. The reference to open market rent in new section 11B(9) in the Bill serves to achieve this effect.

Mr TSE's amendment, as we understand it, is a presentation of the possible problems which may arise during the valuation computation based on open market rent, and assumes that the payment of open market rent as provided for under the Bill will not be sufficient to offer adequate compensation to the asset holder should such problems arise. The Government cannot agree to this. Our stance is:

- (1) From the perspective of asset valuation, the open market rent referred to in the Bill can already provide adequate protection to the interests of the asset holder. Even if the scenarios mentioned in Mr TSE's amendment arise in the course valuation computation, the open market rent mentioned in the Bill can still provide appropriate compensation to the asset holder, so he will not suffer any loss; and

- (2) Even if both sides involved in the mandatory lease of essential premises disagree on the computation of open market rent and the amount involved, the dispute can still be effectively resolved under a reasonable mechanism provided for in the Bill. Under the mechanism, the matter will either be resolved by arbitration or by the Lands Tribunal if both parties agree, and the disagreement will eventually be resolved satisfactorily, thus protecting the interests of the asset holder (that is, the lessor).

Mr TSE's amendment also seeks to provide that an amount should be paid by the lessee for any loss suffered by the asset holder as a result of the lessee failing to maintain the essential premises in a condition that is suitable for operating the tramway in accordance with the Ordinance. Similarly, we consider that the Bill, as currently drafted, is adequate to handle the situation properly and the reasons are as follows:

- (1) New section 11B(8)(b) of the Bill provides that under the mandatory lease arrangement, the lessee has the right to maintain the essential premises in a condition that is appropriate for operating the peak tramway service;
- (2) According to new section 11B(5)(b) of the Bill, when the lessee takes possession of the essential premises, he must operate the peak tramway service in accordance with the terms of the operating right granted. Through the terms of the operating right granted, the Government will require the lessee (that is, the new operator) to maintain the essential premises in a condition appropriate for operating the peak tramway service during the lease period. Failure of the lessee to maintain the essential premises in such a condition during the lease period may be regarded as default arising from non-compliance with the terms of the operating right. The Government may then initiate the exit mechanism under new section 8A(b) of the Bill; and
- (3) Since it is required under new section 11B(3) of the Bill that subject to the Ordinance, the terms of the mandatory lease are to be agreed between the lessor and the lessee, the mandatory lease will be no different from ordinary tenancy agreements in respect of the nature of detailed terms, even if the Government does not step in. Should both parties consider it necessary, they can always incorporate

express provisions into the lease terms, stating that the lessee shall maintain the essential premises in a condition appropriate for operating the peak tramway service, or face the payment of compensation.

Moreover, it is worth noting that the sites which are subject to the mandatory lease arrangement include the land and structures of the terminals on the Peak and Garden Road. Apart from covering the terminal areas at these two sites, the relevant land leases also cover the shopping mall on the Peak and the office building on Garden Road. Although the land leases of the two sites contain no rigid terms requiring the sites to be used for operating the peak tramway service, the existing terminal areas have always been used solely for that purpose and their owner (that is, the Peak Tramways Company Limited (PTC)) has clearly indicated that it has no intention of changing the land use of the sites. Furthermore, the Bill only seeks to maintain the existing use of the sites, so the open market value of the land should not be affected by the mandatory lease arrangement for the terminal sites. In addition, the peak tramway service has been bringing visitors to the adjacent shopping mall, which is held by the same owner (that is, the PTC). Therefore, if the land use of the existing terminal sites remains unchanged, the businesses falling outside the terminal areas will naturally see no change in market value as well.

Chairman, to sum up, I would say that the mandatory lease arrangement for essential premises under the Bill should be able to fully protect the rights and interests of the asset holder, whether we look at its policy intent or the integrity and effectiveness of its mechanism. Hence, the Government considers that the Mr Tony TSE's amendment is unnecessary and should not be adopted.

Thank you, Chairman.

CHAIRMAN (in Cantonese): Mr Tony TSE, do you wish to speak again?

MR TONY TSE (in Cantonese): Chairman, I would like to make some supplementary remarks and express some views on the comments made by the Secretary regarding the amendment I propose.

First of all, I am disappointed by the Secretary's attempt to make reference to the Royal Institution of Chartered Surveyors (RICS) Valuation — Professional Standards (the Red Book) of the United Kingdom when he tried to give an

illustration of open market rent. It is my opinion that the guidelines drawn up in Hong Kong should be used instead since we also have a professional body in this regard, that is, the Hong Kong Institute of Surveyors (HKIS). Although I reckon that the valuation standards adopted by the HKIS are consistent with those adopted by the RICS of the United Kingdom, the guidelines devised by the professional body of Hong Kong should still be adopted. Moreover, a definition has also been given to "open market rent" by the International Valuation Standards Council and in this connection, I think we should keep abreast of the times.

Regarding the proposed section 11B(9)(b) in my amendment, the main point is that if the lessee discharges his responsibility in accordance with the terms of lease, including the responsibility of carrying out maintenance and repair, there will be no problem at all. The main purpose of adding subsection (b) is to provide some form of protection, and the lessee will not be made to pay any additional rent as long as he has duly discharged his responsibility in accordance with the terms of lease. I have to point out that the asset holder has basically no say on the choice of the lessee, but then the Government does not assume the responsibility of monitoring the performance of the lessee. Instead, the monitoring responsibility is shifted to the asset holder. This is simply not right insofar as justice is concerned, because the Government enjoys the greatest authority and also the greatest protection. Everything is determined by the Government (that is, the Chief Executive in Council as provided for in the relevant ordinance), including the choice of the lessee, the period of the lease, and so on. Therefore, if the lessee chosen by the Government duly discharges his responsibility, there will be no problem. If the lessee is chosen by the asset holder, the asset holder should similarly be held responsible for making the wrong choice and bear the consequences of the omission on the part of the lessee. The requirement will also be reflected accordingly in the terms of lease.

Besides, I suggest adding subsection (c), which relates mainly to "an amount equal to any other loss or damage suffered by the lessor as a result of any power exercised by the Chief Executive in Council under this section". During the resumption of Second Reading debate of the Bill earlier, Mr Frankie YICK opined that the scope of the subsection was too broad. However, I would like to clarify that the amendment relates only to clause 15 and thus, the powers to be exercised by the Chief Executive in Council are also confined to the scope as set out in clause 15. First, it is the period of the lease, which is to be determined by the Chief Executive in Council rather than any agreement between the lessee and

the lessor. As mentioned earlier, the period of the lease can be as long as 10 years and is thereafter subject to renewal, which might cause the asset holder to incur a loss.

The second requirement is also confined to clause 15, and under this requirement, the lessor must make sure that the condition of the essential premises is suitable for operating the peak tramway service when the lessee takes possession of the premises. As I mentioned when explaining subsection (b), if the lessee (the operator of the peak tramway service) disappears without a trace, the asset holder must then deal with the mess left behind. This principle generally applies to all tenancy agreements, but in a commercial society, the details and terms of a lease are agreed between both parties, and there is at least mutual consent. But in the case under discussion, the lessee and the period of the lease are to be determined by the Chief Executive in Council. The asset holder has to surrender the premises first even though a consensus cannot be reached on the terms of lease. Can such a thing happen in a commercial society? Will any property owner surrender his premises before an agreement has been reached with the lessee on the terms of lease?

Chairman, the problems as mentioned above do not really exist at present since the current operator of the peak tramway service is also the asset holder of the two terminus sites. However, when enacting a piece of legislation, I think we need to be forward-looking and must consider the matter from all perspectives, and this is the main reason for my amendment. Hence, the amendment I propose mainly seeks to put a fair and just requirement in place. The Peak Tramways Company Limited (PTC) naturally sees no problem since its objective is to continue with its operation. The PTC will be able to reap the most benefits as long as it remains the holder of the relevant premises at the Peak and on Garden Road and the operator of the peak tramway service. However, things may be different if a third party is involved.

Therefore, I would like to reiterate that although the scenario described is not very likely to happen now, or in the next 10 years or even in the next 10 years beyond that, we cannot rule out such a possibility. Judging from the current assessment, there is only a slight chance that the problems suggested will occur but we should not base our consideration on this assessment in the enactment of legislation. Hence, with justice in mind, I hope Members will support my amendment.

Chairman, I so submit.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the amendment moved by Mr Tony TSE be passed. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Tony TSE rose to claim a division.

CHAIRMAN (in Cantonese): Mr Tony TSE has claimed a division. The division bell will ring for five minutes.

CHAIRMAN (in Cantonese): Will Members please proceed to vote.

CHAIRMAN (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Frederick FUNG, Mr CHAN Kin-por, Mr NG Leung-sing, Mr YIU Si-wing, Mr MA Fung-kiwok, Mr Martin LIAO, Mr POON Siu-ping and Mr Tony TSE voted for the amendment.

Prof Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kiwok, Ms Starry LEE, Dr LAM Tai-fai, Mr CHEUNG Kwok-che, Mr IP Kwok-him, Mr Steven HO, Mr Frankie YICK, Mr Charles Peter MOK, Miss CHAN Yuen-han, Mr Kenneth LEUNG, Mr KWOK Wai-keung, Mr Dennis KWOK, Mr Christopher CHEUNG, Mr IP Kin-yuen, Mr TANG Ka-piu, Ir Dr LO Wai-kiwok and Mr CHUNG Kwok-pan voted against the amendment.

Geographical Constituencies:

Mr LEUNG Kwok-hung voted for the amendment.

Mr LEE Cheuk-yan, Mr CHAN Kam-lam, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Ms Cyd HO, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG, Mr Albert CHAN, Ms Claudia MO, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr LEUNG Che-cheung, Miss Alice MAK, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr CHIANG Lai-wan and Mr Christopher CHUNG voted against the amendment.

Dr Priscilla LEUNG and Mr Michael TIEN abstained.

THE CHAIRMAN, Mr Jasper TSANG, did not cast any vote.

CHAIRMAN (in Cantonese): Among the Members returned by functional constituencies, 28 were present, eight were in favour of the amendment, 20 against it and no one abstained; while among the Members returned by geographical constituencies through direct elections, 27 were present, one was in favour of the amendment ...

(Mr LEUNG Kwok-hung stood up and talked)

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, I am now announcing the voting result.

THE CHAIRMAN announced that among the Members returned by functional constituencies, 28 were present, eight were in favour of the amendment and 20 against it; while among the Members returned by geographical constituencies through direct elections, 27 were present, one was in favour of the amendment, 23 against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

CHAIRMAN (in Cantonese): Mr LEUNG Kwok-hung, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): Chairman, I request to change the voting record, as I pressed the wrong button when casting my vote. I intended to cast an opposition vote.

CHAIRMAN (in Cantonese): I have already announced the voting results. You cannot request for a change now.

MR LEUNG KWOK-HUNG (in Cantonese): In that case, please put it down on record. Thank you.

CLERK (in Cantonese): Clause 15 as amended.

CHAIRMAN (in Cantonese): As the Secretary's amendments to clause 15 have been passed by the Committee earlier, I now put the question to you and that is: That clause 15 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

CHAIRMAN (in Cantonese): Those against please raise their hands.

(Members raised their hands)

CHAIRMAN (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CHAIRMAN (in Cantonese): Council now resumes.

Council then resumed.

Third Reading of Bill

PRESIDENT (in Cantonese): Bill: Third Reading.

PEAK TRAMWAY (AMENDMENT) BILL 2015

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, the

Peak Tramway (Amendment) Bill 2015

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Peak Tramway (Amendment) Bill 2015 be read the Third time and do passed.

Does any Member wish to speak?

MR TONY TSE (in Cantonese): President, I am of course disappointed that my amendment cannot win the support of the majority of Members, but I still wish to thank those Members who support my amendment. As I pointed out in my last two and many more speeches, my amendment is based on justice ...

PRESIDENT (in Cantonese): Mr TSE, as this is the Third Reading debate of the Bill, a Member should express his or her view on whether or not he or she supports or opposes the entire Bill. Thus you should not repeat the grounds for proposing the amendment. As you have said just now, you have repeated that many times.

MR TONY TSE (in Cantonese): President, I understand. However, I want to say once again that it may not always be possible to uphold justice. (*Laughter*)

President, I wish to reiterate that I will not support the passage of the Third Reading of the Bill as I mentioned in my speeches earlier.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Peak Tramway (Amendment) Bill 2015 be read the Third time and do pass. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Peak Tramway (Amendment) Bill 2015.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two proposed resolutions under the Interpretation and General Clauses Ordinance in relation to the extension of the period for amending subsidiary legislation.

First motion: To extend the period for amending the Live Television Link (Witnesses outside Hong Kong) Rules and the Rules of the High Court (Amendment) (No. 2) Rules 2015, which were laid on the Table of this Council on 8 July 2015.

I now call upon Mr Dennis KWOK to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR DENNIS KWOK: President, in my capacity as the Chairman of the Subcommittee on Live Television Link (Witnesses outside Hong Kong) Rules and Rules of the High Court (Amendment) (No. 2) Rules 2015 (the Subcommittee), I move the motion standing in my name on the Agenda to extend the scrutiny period of the two pieces of subsidiary legislation scrutinized by the Subcommittee to the Council meeting on 18 November 2015, so as to allow more time for the Subcommittee to report its deliberation to the House Committee.

With these remarks, I urge Members to support the motion.

Mr Dennis KWOK moved the following motion:

"RESOLVED that in relation to the —

- (a) Live Television Link (Witnesses outside Hong Kong) Rules, published in the Gazette as Legal Notice No. 145 of 2015; and
- (b) Rules of the High Court (Amendment) (No. 2) Rules 2015, published in the Gazette as Legal Notice No. 146 of 2015,

and laid on the table of the Legislative Council on 8 July 2015, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) and deemed to be extended under section 34(3) of that Ordinance, be extended under section 34(4) of that Ordinance to the meeting of 18 November 2015."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Dennis KWOK be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Dennis KWOK be passed. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Second motion: To extend the period for amending six Rules on Suitors' Funds, which were laid on the Table of this Council on 8 July 2015.

I now call upon Dr CHIANG Lai-wan to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

DR CHIANG LAI-WAN (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Rules on Suitors' Funds (the Subcommittee), I move that the motion, as printed under my name on the Agenda, be passed.

The Subcommittee held its first meeting on 20 October 2015. In order to reserve sufficient time for the Subcommittee to report to the House Committee, I beg Members' support to the motion so that the period for scrutinizing the above subsidiary legislation can be extended to 18 November 2015.

Dr CHIANG Lai-wan moved the following motion:

"RESOLVED that in relation to the —

- (a) Hong Kong Court of Final Appeal Suitors' Funds Rules, published in the Gazette as Legal Notice No. 147 of 2015;
- (b) High Court Suitors' Funds (Amendment) Rules 2015, published in the Gazette as Legal Notice No. 148 of 2015;
- (c) District Court Suitors' Funds (Amendment) Rules 2015, published in the Gazette as Legal Notice No. 149 of 2015;
- (d) Lands Tribunal (Suitors' Funds) Rules, published in the Gazette as Legal Notice No. 150 of 2015;
- (e) Labour Tribunal (Suitors' Funds) (Amendment) Rules 2015, published in the Gazette as Legal Notice No. 151 of 2015; and
- (f) Small Claims Tribunal (Suitors' Funds) (Amendment) Rules 2015, published in the Gazette as Legal Notice No. 152 of 2015,

and laid on the table of the Legislative Council on 8 July 2015, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) and deemed to be extended under section 34(3) of that Ordinance, be extended under section 34(4) of that Ordinance to the meeting of 18 November 2015."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr CHIANG Lai-wan be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

PRESIDENT (in Cantonese): Debates on motions with no legislative effect. The motion debate on "Seizing the opportunities brought about by 'One Belt One Road' and seeking new directions for Hong Kong's economy".

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

I now call upon Mr Martin LIAO to speak and move the motion.

SEIZING THE OPPORTUNITIES BROUGHT ABOUT BY "ONE BELT ONE ROAD" AND SEEKING NEW DIRECTIONS FOR HONG KONG'S ECONOMY

MR MARTIN LIAO (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

President, "One Belt One Road" is a major strategy of the century put forward by our country. In essence, it is a plan with broad vision that transcends our present age, an important step towards the full-scale expansion of China's policy of opening. By further opening itself to the countries along "One Belt One Road", our country can forge a framework of regional economic co-operation, look for potential markets in the region, promote trade, and create demand and employment. Of course, the objective of "One Belt One Road" is not limited to economic and regional co-operation. It is at the same time a new experiment of international co-operation and a search for links with other countries in the five arenas of policies, facilities, trade, capitals and people (the "Five Links"). The targets are not limited to countries and places along "One Belt One Road".

"One Belt One Road" was first put forward by our country in 2013, and after more than a year's mooting, this year finally sees the rolling out of the plan. Our country has released the Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road (Vision and Actions), and many projects and plans are gradually taking shape. At this moment, China is already holding discussions with countries and places along "One Belt One Road", in a bid to bring continuous enrichment to the areas and modes of co-operation under "One Belt One Road" and to discuss the implementation plan and action roadmap for "One Belt One Road". Therefore, if Hong Kong wants to have a role to play in "One Belt One Road", it must participate early. Most importantly, the SAR Government must provide leadership and support to various industries, so that they can grasp the opportunity in good time.

"One Belt One Road", which stretches across the three continents of Asia, Europe and Africa, will be the world's longest economic corridor and largest propeller of economic activities. With an estimated economic value of HK\$16.3 billion, its economic potentials are monumental. It covers 4.4 billion people in 26 Asian countries and places, or 63% of the world's population. Under the Vision and Actions, there is huge room for the development of various industries, including transport, port infrastructure, e-commerce, agriculture, forestry, animal husbandry and fisheries, green industries and so on. Hong Kong enjoys an edge in some of these industries. Specifically, however, how can Hong Kong industries make a start?

The Chief Executive has said that we should start with three actions. First, we must decide which countries are to be given priority. Second, we should choose some appropriate industries. Third, we should consider what

specific mechanism should be adopted by the SAR Government to promote "One Belt One Road". I very much agree with him. However, more importantly, can we aim still higher and further, rather than just seeking the business opportunities available at present? Shouldn't we be bold enough to search for a new direction of sustainable economic growth in the next 50 years or even beyond?

Over all these years, owing to its homogeneous industrial structure and slow economic restructuring, Hong Kong has been stuck in a bottleneck of development. As our competitors catch up and we gradually lose certain advantages that we used to enjoy, our global rankings in many areas have declined. Added to this are the uncertainties of the external economy, the upcoming US interest rate normalization, the slow economic recovery of Europe and Japan, the pressure of economic slackening on our country and the ageing of our own population. Hong Kong's economic outlook is indeed full of worries. In view of all these, there is an urgent need for Hong Kong to seize the opportunities presented by "One Belt One Road" in order to achieve economic diversification, a goal we have not yet been able to attain.

President, the new economic direction that I have mentioned refers firstly to the attempt to explore areas of economic development which are relatively new or underdeveloped. Apart from this, industries where Hong Kong traditionally enjoys clear advantages can also make use of the new platform provided by "One Belt One Road" to develop new markets and undergo upgrading and transformation.

With regard to the financial industry, Hong Kong as one of the three major financial centres in the world is in possession of the following advantages: the largest offshore Renminbi (RMB) business in the world, the biggest pool of RMB capital outside Mainland China, a well-developed financial system, professional work specialization in the financial industry, a full range of transparent and diversified financial products, a sound financial regulatory regime for upholding discipline, first-rate assets management services and a pool of world-class financial talents. With all these advantages, Hong Kong is fully capable of serving as the premier centre of multi-channel capital formation and financing for enterprises in the countries along "One Belt One Road". As shown by statistics, the investment of "One Belt One Road" in infrastructure facilities alone will already amount to US\$1,040 billion. The size of multi-national investment will

be around US\$52.4 billion. Hong Kong is well-equipped to become the treasury centre of the Asian Infrastructure Investment Bank (AIIB) and provide financing services for the construction projects of countries along "One Belt One Road".

To meet the huge financing needs of "One Belt One Road", our country has set up the Silk Road Fund and the AIIB. This will also bring about vast business opportunities in financing for Hong Kong and help promote the development of the local bond market, thus enhancing our financial strength. Furthermore, as the economic and trade activities among the countries along "One Belt One Road" increase in volume, RMB will be more frequently used as the medium of exchange, in turn boosting the demand for financing. In addition, in its present financial reform and opening, China is striving to establish an RMB-based regional currency system in Asia, and to expand the channels for the repatriation of RMB to China. This will be conducive to the development of the RMB market in Hong Kong and can reinforce its position as a hub of offshore RMB business. The Financial Services Development Council has further indicated that if RMB is held as a reserve currency, there will be an estimated outflow of RMB 500 billion yuan to RMB 600 billion yuan from our country. When this happens, Hong Kong can play an even greater role in RMB capital accounts and RMB internationalization, and make use of the opportunity to develop itself into a versatile financial market. Since there are many Islamic countries along "One Belt One Road", the Islamic bond market in Hong Kong, which has been developing well in recent years, may also see sizable growth. As "One Belt One Road" will promote mutual access among financial markets in Asia, the development of wealth and fund management as well as private equity funds in Hong Kong will also benefit.

Moreover, the shipping industry, in which Hong Kong still enjoys certain advantages, may also gain advancement. Hong Kong is an international shipping hub, a goods distribution centre packed with numerous logistics enterprises. Its international airport and port management facilities are of world-class standard, with routes reaching everywhere on the globe, and its customs clearance is among the most efficient in the world. Hong Kong may assist countries along "One Belt One Road" in "replicating" port and cities in the Mainland. It may also share its experience in customs clearance with these countries and assist them in building a network of co-operation. Efforts may be made to promote joint supervision, exchange of data, and mutual assistance in law enforcement.

Another pillar industry in Hong Kong, the business and professional services, can even be upgraded to become the professional support centre for "One Belt One Road" projects. Last year, China became the largest outward investment country in Asia, overtaking Japan for the first time. Hong Kong has always been the "go global" platform for Mainland enterprises. According to the statistics provided by the Ministry of Commerce of the Mainland, as at the end of 2013, the outward investment made by the Mainland via Hong Kong amounted to US\$370 billion, or about 57% of its total cumulative investment. However, the "go global" endeavour of Chinese enterprises is still at the early stage, and "One Belt One Road" will certainly prompt more Mainland enterprises to "go global". As Mainland enterprises increase their outward investment, merger and acquisition activities, they will have greater demand for Hong Kong's professional services in related areas. As a leading professional services centre in Asia equipped with high-end professional talents, extensive global exposure, rich industry expertise, strict codes of practice and a gigantic network of business connections, Hong Kong can provide the legal, arbitration, mediation, accounting, risk assessment, management and consulting services required by "One Belt One Road" projects.

Apart from industries which have long enjoyed a competitive edge, nascent industries in Hong Kong can also find new development direction under the "One Belt One Road". For instance, though the innovation and technology industry in Hong Kong still fail to thrive for one reasons or another, world-class technological researchers are nonetheless found in Hong Kong. To cite an example, a research team from the City University of Hong Kong has been awarded the Grand Prix at the Geneva International Exhibition of Inventions this year, for their development of a biotechnological product in the testing for toxins. The innovation and technology industry should make good use of the "One Belt One Road" platform to seek opportunities for giving play to their talent in different areas.

Another new direction is e-commerce. As reported, the size of the global e-commerce market will stand at US\$2,300 billion in 2018, and the Asia-Pacific region will take up a 38% market share. "One Belt One Road" is bound to engender more multilateral trade activities and Hong Kong should seize these opportunities, particularly by combining e-commerce with existing industries which have long been enjoying a competitive edge. If the Steering Group on Financial Technologies manages to promote Hong Kong as a financial technologies centre, then with our freedom in information technology, abundance

of talents, well-developed legal system and intellectual property rights protection, Hong Kong is definitely qualified to become a financial technologies hub under "One Belt One Road" area.

President, time is limited, and what I have talked about are just a handful of examples that are worth considering among the numerous opportunities presented by "One Belt One Road". As for exactly how many new economic development directions can be possible under "One Belt One Road", it is all up to the Government, the business sector and the community to explore. The Chief Executive has commented that the Hong Kong industries which can "go global" are not confined to the leading ones, and that a study will be conducted on establishing a body with sole responsibility for dovetailing with our country's development of "One Belt One Road". I believe that the Hong Kong community very much hopes that after the finalization of the Thirteenth Five-Year Plan, the Government can make early announcement to tell the public what specific opportunities can be brought by "One Belt One Road" to different sectors and the kinds of assistance the Government will provide.

President, "One Belt One Road" is now in the stage of multilateral negotiations on co-operation and contents of projects. It is very important for Hong Kong to actively participate in this early stage and grasp the opportunities ahead of others. However, the business sector must not be left to fight a lone battle, because the sector alone cannot possibly enable society as a whole to place its resources effectively. Early this year, I already urged the Chief Executive to gather the latest information about the development of "One Belt One Road" at the government level, and now, I must ask the Government to expeditiously formulate a long-term strategy and blueprint for assisting various industries in seizing the opportunities presented by "One Belt One Road", and to build a platform for information exchange and enquiries on "One Belt One Road". Furthermore, the SAR Government should also strive to foster a favourable environment through various efforts, including active participation in negotiations regarding bilateral agreements on facilitating trade and protecting investment, the establishment of additional Hong Kong Economic and Trade Offices, and the channeling of resources and talents to the major areas under "One Belt One Road". The Chief Executive has also mentioned that the authorities will co-ordinate the efforts made by chambers of commerce and professional bodies to participate in "One Belt One Road". Regrettably, there have just been empty talks so far. I hope that rather than wasting any more time, the authorities can now assume leadership and join hands with the business sector to turn the opportunities arising from "One Belt One Road" into actual economic gains.

President, "One Belt One Road" is a long-term and important development strategy of our country, and at the same time, it will also have a bearing on the future development of Hong Kong. Hong Kong played a unique role in our country's reform and opening in the previous century. If we want to make continued contributions and bring benefits to all in the new setting of our country's full-scale opening, and if we also want to play a greater role in the new economic order of the world, we must fully prepare ourselves for grasping the opportunities presented by "One Belt One Road". I so submit.

Mr Martin LIAO moved the following motion: (Translation)

"That the 'Silk Road Economic Belt' and the '21st Century Maritime Silk Road' ('One Belt One Road') is a major strategy for the country's future long-term development, and is a new opportunity for promoting multi-faceted co-operation in regional economies and market development around the world; in this connection, this Council urges the SAR Government to lead and support various industries to seize the opportunities in a timely manner, and seek new directions for the sustainable development of Hong Kong's overall economy."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Martin LIAO be passed.

PRESIDENT (in Cantonese): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will call upon Members who move the amendments to speak in the following order: Mr Christopher CHEUNG, Mr CHAN Kam-lam, Mr NG Leung-sing and Mr MA Fung-kwok; but they may not move the amendments at this stage.

MR CHRISTOPHER CHEUNG (in Cantonese): President, first, I thank Mr Martin LIAO very much for proposing this motion today, as the Fifth Plenary Session of the 18th Central Committee of the Communist Party of China has

already been convened. During the discussion on the 13th Five-Year Plan, all eyes are on whether more details will be disclosed about "One Belt One Road", a strategic idea proposed by State President XI Jinping two years ago.

After 30 odd years of reform and opening , our country's economic development has reached a certain scale, and it is surely not easy to go on seeking greater growth. Therefore, our country needs to inject new economic impetus and find a new way out. "One Belt One Road" is exactly another major economic engine of our country next to its reform and opening and admission to the World Trade Organization.

Quite a lot of people see "One Belt One Road" as something in the conceptual stage that is yet to have any concrete policy and economic benefit. However, from my visit to Central Europe last month as a member of the "One Belt One Road" Hong Kong business and trade delegation led by the Financial Secretary, Mr John TSANG, I realize the importance and expectation they have attached to this vital and innovative strategy. I think that since Hong Kong is the only metropolis in China where East and West converge and the only city that fully implements capitalism in our country, we are in a better position to take the initiative under the "One Belt One Road" development strategy in exploring business opportunities ahead of others, so that we will not lag behind others.

In recent years, Hong Kong's economic growth mostly hovers around the lower end of 2% to 3%, apart from a rebound of close to 8% after the financial tsunami in 2008. From one perspective, we can say that Hong Kong already has a highly mature economy, but in another way, we may say that it lacks a bright spot for strong growth. Hong Kong simply cannot rely on a population of 7-odd million people to support its local consumption market. We must have an innovative mind and the creative talent to regain our high growth momentum.

The "One Belt One Road" initiative covers a total of 65 countries, including Mongolia, 10 countries of the Association of South East Asian Nations, 18 countries in Western Asia, countries such as India and Pakistan in Southern Asia, 16 countries in Central Asia, the Commonwealth of Independent States, Central and Eastern Europe, such as, Poland, Czech Republic and Hungary, and so on. It is a corridor of economic and trade co-operation which spans Asia, Europe and Africa, comprising a mix of mature and emerging markets. The developing countries are all in need to carry out infrastructure projects. For the construction of railways alone, the whole initiative expects to build tracks with a

total length of more than 10 000 km. The markets will bring in substantial investment to a wide range of industries, and are thus in need of a colossal amount of funds.

The Asian Development Bank (ADB) estimated a demand of US\$8,000 billion in funding for infrastructure development in Asia over the 10 years between 2010 and 2020, or an investment of US\$800 billion each year on average. However, the ADB estimated an annual credit approval of only US\$13 billion. And the World Bank only approves an credit of US\$50 billion each year. There is an enormous funding gap. Even if we add in a capital of US\$100 billion from the Asian Infrastructure Investment Bank (AIIB) led by the Motherland, we are still short of capital to completely fulfil the financing needs in this respect.

President Xi Jinping has chosen to announce the "London-Hong Kong Connect" scheme which connects bulk commodities markets in London and Hong Kong during his important visit to England, and this indicates the tremendous value the State has placed on Hong Kong's financial development, as well as its hope for Hong Kong to exert greater effect on the State's financial reform. Therefore, we have to put in more effort in seeking the AIIB to establish in Hong Kong its headquarters, or at least its regional headquarters, so that "One Belt One Road" related countries can set up major financial institutions in Hong Kong in a bid to attract multinational corporations to utilize Hong Kong's capital-raising platform for investment, financing, listing and bond issuance. This would further broaden, consolidate and internationalize our foundation as an international financial centre. These are also the major arguments in my amendment. I believe this would serve to add more vitality to the local financial market, making significant contribution to Hong Kong's economic development.

President, I want to underscore an argument. Hong Kong has a stable economic and financial structure, and this gains us recognition from international investors and secure firm support from the Central Government, despite last year's Occupy Central movement.

For example, although Hong Kong was not immune from the Mainland stock market crash in July this year, and share prices in Hong Kong followed their Mainland counterparts in a series of slumps, yet the local financial market still operated in an orderly manner with a total absence of panic sell-off, nor was there any "stampede" in the course. Also, the regulators did not intervene in the market. All these brought the advantages of Hong Kong's free market economy

into full play, and was the subject of great appreciation by overseas media, highlighting the stability and reliability of our financial market, as well as the sophistication and effectiveness of our regulation and control.

Furthermore, our development as an offshore RMB centre has been gaining momentum in recent years. Hong Kong hosts the largest overseas RMB liquidity pool, and will surely offer contribution to RMB internationalization; and we are also the largest asset management centre in Asia, with rich experience in wealth and risk management. On top of this, our experience of successful issuance of Islamic Bonds twice in the two-year period of this year and the last will certainly have some conducive effects on the connection of network and linkages between the financial systems of many Islamic countries along the "One Belt One Road" initiative. We absolutely do have the expertise to become the financial and wealth centre for "One Belt One Road".

Many considers that the hasty conclusion of fundamental agreement between countries under the Trans-Pacific Partnership Agreement (TPP) led by the United States is a step targeting China's development. But I am very confident that the State's direction and strategy in "One Belt One Road" will not be impeded because of this.

So, what can Hong Kong do to play a part in this strategic development? Since the illegal Occupy Central last year, many voices about localism and "desinicization" have come to surface in Hong Kong. Seemingly there is an intention to erect a wall along Shenzhen River to separate the economic co-operation between Hong Kong and the Mainland. These ideas will absolutely jeopardize Hong Kong's future development. As the bridgehead for the Mainland to connect with the world, Hong Kong needs to deepen the economic convergence with the Mainland and step up local technological development, so that society can give up pointless political disputes, actively nurture talent and strive to promote its own development. Only this can bring Hong Kong a new bright spot and offer greater contribution to the State's "One Belt One Road" strategy.

With these remarks, President, I support the original motion and all the amendments.

MR CHAN KAM-LAM (in Cantonese): President, in the wake of the financial tsunami, the European and American economies lack the momentum to recover. The rise of emerging markets has restricted the strategy of relying solely on

Europe and the United States to propel economic development. Whether we are talking about market development, the mastering of resources or the upgrading of technologies, we are asking for a more comprehensive breakthrough for liberalization. In order to reinvigorate the global economy, we have to push back protectionism, suppress counter-globalization and reshape the world order and tweak the multilateral co-ordination mechanism. "One Belt One Road" is China's response to the reshaping of the world economic order. Asia and China will become the world's economic hub of the 21st century. During our visit to Beijing earlier, the DAB put forward our proposals on "One Belt One Road" to Central government officials, hoping that Hong Kong could join in the construction of "One Belt One Road".

The primary task of the "One Belt One Road" strategy is to accord priority to infrastructure. Infrastructure projects will be the investment target of outflowing Chinese capital. Apart from investment, going global to secure contracts of international engineering projects and export of machinery will also give rise to many opportunities. This will in turn generate business opportunities for all the enterprises concerned. Hong Kong is experienced in following internationally adopted market discipline and rules, and well versed in investment and operation. As more Chinese enterprises invest in infrastructure projects in countries along the silk road, Hong Kong can provide them with specialized infrastructural loans, consultancy service, project management and professional services to enable enterprises which are going global to develop their business more smoothly. The SAR Government should also encourage commercial equity funds and private funds to take part in the construction of key specialized projects under the "One Belt One Road" scheme.

In respect of industry co-operation, earlier, Shaanxi province even expressed that as it intended to establish industrial parks in Central Asia and Africa and set up energy funds and financial centres for "One Belt One Road", the talent issue had to be addressed. I believe Hong Kong can deepen co-operation with Shaanxi province and make the best use of our edges in the relevant projects. We encourage Hong Kong enterprises to participate.

Last Saturday, the DAB held a round-table forum on the economy. At the forum, Prof QU Baozhi of the China Merchants Group pointed out that member states of "One Belt One Road" desperately needed to develop terminal operating and management business. Such investment can be spearheaded by enterprises and can in the meantime benefit small and medium enterprises.

President, Hong Kong can play an important role in the offering of financial services. We can provide services covering financing, asset management, foreign exchange insurance, treasury and risk management. Through innovative measures, Hong Kong can to a larger extent facilitate the various financial needs of "One Belt One Road" projects. The DAB has all along proposed that Hong Kong can strive for playing a bigger role in the operation of "Two Banks One Fund", including housing their regional offices and branches. Meanwhile, leveraging on international talents, we should fight for bringing the underlying funds of the Silk Road Fund to Hong Kong, or we can even set up a "Hong Kong Silk Road Fund" to invest in and raise funds for suitable projects.

Regarding the tourism industry, countries along "One Belt One Road" will in the future streamline the application procedure for tourist visa. Earlier, the British Government has announced that visas valid for 10 years will be issued to Chinese tourists to lure them. We believe that these opportunities are also business opportunities which Hong Kong's tourism industry can develop. We also hope that the SAR Government will proactively develop new fields in tourism with the surrounding regions.

President, a key factor for the successful implementation of "One Belt One Road" is the drawing up of commonly recognized international standards by regions along the route. These standards should cover communications, operation, finance and technology. The DAB recommends that the SAR Government boost the feasibility of holding discussion and forging co-operation with all countries.

President, we consider it very important for the SAR Government to introduce appropriate and timely policies at this time. However, what is more important is how Hong Kong people regard this development opportunity. First, we have to realize that the Hong Kong economy faces dire challenges. Lately, the Chief Executive, the Financial Secretary and the Secretary for Financial Services and the Treasury have over and again reminded that the Hong Kong economy is battered by external and domestic woes: The market has been expecting an interest hike in the United States which may cause fluctuations in asset prices, or even an outflow of capital from Hong Kong; as economic growth on the Mainland eases, the same will happen in Hong Kong; a slowdown in global economic recovery. Hong Kong's export will continue to fall given the above three circumstances. As Hong Kong is a vulnerable export-oriented economy, these external impacts are just unavoidable.

At the same time, Hong Kong has to face competition from the surrounding cities. In the case of Shanghai and Macao which are also coastal Chinese cities, they have shown immense enthusiasm and are proactively participating in "One Belt One Road" planning. Singapore also expects to play a key role in "One Belt One Road" in the future. Actually, many Mainland enterprises have made investment via Singapore, consolidated their resources in the region and successfully internationalized their enterprises. The development of Hong Kong's innovative technology also far lags behind Shenzhen. Under such circumstances, we have recently witnessed how Da-Jiang Innovations Science and Technology Co., Ltd. has worked miracles with technology talents from Hong Kong.

Domestically, the Hong Kong economy also has a host of problems. We rely heavily on the financial, tourism and servicing industries. After the several rounds of swings in the stock market lately, some big firms have already had bearish sentiments towards the Hong Kong economy. Malicious actions like the Occupy Central, "shopping" campaigns and "liberation protests" have dealt a blow to Hong Kong's tourism industry, triggering a drop in retail spending. There have also been occasional cases of tourists being exploited by unscrupulous shops. Not only are such acts illegal and short-sighted, they have also tarnished Hong Kong's international reputation in general. Tourism and the retail industry have sounded a warning. With the folding of some restaurants and shops, Hong Kong's unemployment rate may rise at any time. There is a pressing need for a transformation of the Hong Kong economy, and innovation technology is naturally an alternative. However, the establishment of the Innovation and Technology Bureau has been stalled for three years. Up till now, the Finance Committee has received 1 133 motions proposed under Rule 37A of the Rules of Procedure, and the pan-democratic camp is poised to scupper the Innovation and Technology Bureau.

President, the economic doldrums we land in now is the result of prolonged filibustering in the Council by the opposition which has been lingering on for some time. They oppose whatever measures proposed by the Government. This obstructs the Government's operation and denies the implementation of smooth administration. If Hong Kong continues to feel complacent and marginalize itself, politicize all issues and waste social resources amidst endless political disputes, it will miss the valuable development opportunities and will only keep going downhill. The safeguarding of the economy and people's livelihood are no longer subjects which we have to discuss, but pressing issues which we have to tackle. This requires the full co-operation of the Legislative Council.

China aspires to open a new chapter for its economy through the "One Belt One Road" strategy. Countries around the world are actively participating, with the hope of securing a seat on this "Oriental Express" of China. This is also an opportunity for Hong Kong to develop new prospects for the economy. Nonetheless, in face of this opportunity, some people in Hong Kong surprisingly advocate localism. They reject integration, expel Mainland tourists and oppose local students to go to the Mainland for exchanges. All these are the most direct and destructive manifestation. Now is the time when a move in the Chinese economy will create a major impact on the global economy. It is an undeniable fact that China will become the major thrust for long-term development, and China-Hong Kong integration is part and parcel to the development of the Hong Kong economy. If Hong Kong people fail to realize this fact and accept it, we will miss the chance for Hong Kong to upgrade and transform itself, and we are bound to lose out.

President, the DAB supports the original motion and all the amendments.

MR NG LEUNG-SING (in Cantonese): President, first, I would like to thank Mr Martin LIAO for moving the original motion as this is a major epoch-making project for China and even the world in all respects. The Council needs to debate and attach importance to it. The purpose of my amendment is to enrich the content of the motion, and I will elaborate below.

First, peace and development form the backbone of China's relationship with the world. Up to the present stage of development, "One Belt One Road" is a major move by China to propel a new round of actions to open up its economy to the world. This is conducive to forging a new situation of comprehensive liberalization, thus reversing the past imbalance of laying the emphasis only on coastal regions and regions to the east. On the other hand, China can export its capital, skills and capacity to the coastal countries to be developed together to create a win-win situation. Therefore, I have added the words "of its own economy and external economic and trade activities" to describe the direction of this important strategy. GAO Hucheng, Minister of the Ministry of Commerce of the People's Republic of China, pointed out that "One Belt One Road" focused mainly on the following five areas: policy communication, infrastructure connection, trade facilitation, credit financing, as well as linkage between the people among countries. Trade co-operation can inject momentum into the implementation of the above. Through the dismantling of trade and investment

barriers and the expansion of the scale of trade investment, the potential for co-operation by countries along the route in trade investment can be fully unleashed. This will create the conditions for Internet interconnection and financial co-operation.

Hong Kong has developed into China's financial centre, and it is at the same time an international Chinese financial centre. Now, Hong Kong is also an integral component of the so-called "Newlonkong". At present, Hong Kong's offshore RMB fund pool has exceeded RMB 1,000 billion yuan, accounting for roughly 70% of the global share. This makes Hong Kong the most important offshore RMB financing centre and a testing ground for the country's financial reform. From the perspective of comparative advantage, the financial industry has remained Hong Kong's strength which cannot be easily replaced. Therefore, I place special emphasis on Hong Kong's unique advantage as an international financial centre.

As the saying goes, "provisions should be ready before any army mobilization", "One Belt One Road" construction requires the backing of massive funds. According to the initial projection of the Asian Development Bank, by 2020, the Asian region needs as much as US\$730 billion annually to meet its demand for investment in infrastructure construction. As the shortfall in funds is colossal, it will lead to financing demand and will at the same time generate greater demand for professional services pertaining to the projects, including design and planning, project management, financial management, risk management, and professional legal and taxation consultancy services. As Hong Kong has always opened its door to talents from all over the world, we are well-positioned to make more contributions. This will bring mutual benefit to all.

President, along "One Belt One Road" are mostly new emerging economies which are developing in economic terms. With the launching of "One Belt One Road", infrastructure construction will be accelerated. In turn, this will result in a dramatic increase in the cross-boundary use of the Renminbi (RMB). As an international financial centre and the world's largest offshore RMB business centre, Hong Kong can take up the role of a financial conduit connecting China and countries along "One Belt One Road". The internationalization, transparency and high efficiency of Hong Kong's capital market can precisely provide Chinese domestic enterprises which are going global with diversified and well-equipped financing platforms. Moreover, as Hong Kong is Asia's most well-established asset management hub, it is also ready to absorb the wealth

generated by "One Belt One Road" to introduce one-stop service for management of asset and trust. All in all, as an international financial centre, Hong Kong has to keep on consolidating and boosting its soft and hard power, including talents and regimes, so as to usher in a huge opportunity which is new and epoch-making. What is worth our greater attention is that lately, Britain has also shown keen interest in joining "One Belt One Road". With the two international financial centres of London and Hong Kong partnering up in the future, a very distinct synergy effect will be unleashed.

Another important point which I would like to discuss is that as "One Belt One Road" unfolds, Hong Kong has to play the role of a "super-connector" between Mainland China and the world. All along, Hong Kong has been a free port which is entirely open to the world. Goods, information, capital and talents can freely come and go, and a close link has long been established with all countries around the world. In addition, we practise common law and our business environment and business operation fully integrate with the international community. We can therefore still be called the best internationalized cosmopolitan of China. Since Hong Kong has the edge of "two systems" which is not enjoyed by the Mainland cities, and the edge of "one country" which neighbouring cities like Singapore lack, we can definitely be an intermediary between the Mainland and countries along "One Belt One Road". Someone has compared this intermediary role to a Chief Information Officer (CIO) for China's external exchanges and a Chief Knowledge Officer (CKO). I find this comparison very appropriate. This can lead to the emergence of other related high value-added industries, such as intellectual property and maritime services.

President, lastly, my amendment has also proposed to explore new development potentials. In its study report released lately, the Conference Board — the United States think tank — pointed out that the growth of labour force output of advanced economies around the world is declining. Hong Kong can greet the huge opportunity brought by "One Belt One Road". So long as Hong Kong can properly adjust our industry structure and policy framework, like the establishment of the new Innovation and Technology Bureau which we now need, we should be in a better position to move towards the high value-added direction to inject new impetus into our future economy and people's livelihood.

President, I so submit.

MR MA FUNG-KWOK (in Cantonese): President, to begin with, I wish to thank Mr Martin LIAO for proposing this motion today. It has given us an opportunity to discuss this important issue which will affect the future development of the country, Hong Kong and even the whole world.

President, "One Belt One Road" was proposed by Chinese President XI Jinping in 2013. Its purpose is to deepen exchanges and co-operation among those countries and regions along the "Silk Road Economic Belt" and the "21st Century Maritime Silk Road", and to elevate regional contact, co-operation and development to another level. After the rolling out of "One Belt One Road", many people think that Hong Kong should — and is able to — participate and enter the emerging markets along "One Belt One Road" under the latest political and economic setting, so that we can further fulfil our commercial and economic strengths, help the country "go global" and foster its prosperity and development while also identifying a new development direction for ourselves.

So, what functions can Hong Kong perform under "One Belt One Road"? And, what are the opportunities for Hong Kong? As mentioned in his speech at the Boao Forum for Asia Annual Conference 2015, the Chief Executive thinks that Hong Kong is well-equipped to function as a regional hub for "One Belt One Road" and develop in five broad directions with its role as a "super-connector", namely a fundraising hub, an offshore Renminbi hub, a trade and investment hub, a hub for service professionals as well as a logistics and transportation hub. Honestly, Hong Kong is a sophisticated metropolis enjoying systemic advantages and equipped with comprehensive infrastructure, a huge international business and logistic network, a sound legal system and various kinds of talents. So, we are suitable for development in these five directions.

But we should not forget that "One Belt One Road" not only advocates economic and trade co-operation. From a wider perspective, it also advocates political and cultural collaboration. For this reason, I think that when we consider the question about Hong Kong's room for development under the "One Belt One Road" strategy, we should not merely confine ourselves to the five hubs mentioned above, still less can we neglect the room for cultural development and also the functions of the cultural and creative industry. This is precisely the reason why I propose an amendment for supplementary purpose.

President, if we look at the map, we can notice without much difficulty that "One Belt One Road" stretches across 26 countries in Asia, Africa and Europe. Every country has its own ethnic, religious, historical and cultural background.

The differences can precisely bring huge room for cultural development and innovation to those countries along "One Belt One Road". Many people agree that the uniqueness of the Hong Kong culture originates from our historical background. The several thousand years' the Chinese culture we have inherited and the Western culture resulting colonial rule have turned Hong Kong into a place integrated with the Chinese and Western cultures. The immersion of the traditional Chinese culture, coupled with the influence of the Western culture and values, has shaped Hong Kong into a tolerant and open society. These features are fully reflected in our cultural, artistic, movie, music and design productions.

President, it can be said that the cultural, arts and creative industry and economic development are complementary to each other. Hong Kong is only a tiny place with a small market, but our cultural industry has always remained open and attached importance to both the domestic market and the external market. If we cast our eyes on the entire "One Belt One Road" region, our target market will become billions of people. With a larger market for the cultural industry, the diffusion and influence of our culture will naturally multiply. This can in turn help us develop new areas for economic growth. Economically, the cultural, arts and creative industry can generate immense economic benefits.

Statistics show that in 2014, the world market for the cultural industry already reached US\$1,440.3 billion in scale and was expected to grow at a speed of 4% each year. The cultural, arts and creative industry will be an important innovation industry in the next generation. Many countries are seriously considering how they can benefit from this growing market.

Under the "One Belt One Road" concept as advocated, the country is likewise actively developing its cultural industry into an important economic growth area, in the hope of enhancing its soft power, influence and say, and enabling the Chinese culture to "go global". The Ministry of Culture is now compiling a strategic plan for the cultural industries on the Silk Road, with a view to improving the mechanism for cultural exchanges and co-operation among countries along "One Belt One Road". It is also conducting studies on various issues, such as the cultures and consumption habits in those countries along "One Belt One Road" and also ways to enhance the competitiveness of cultural enterprises, so as to develop the cultural industry into a new driving force for boosting economic growth and national strength. In my view, these directions and studies deserve our studies and in-depth understanding.

President, Hong Kong's cultural and creative productions (especially movies, television programmes and also music) once enjoyed wide popularity in Asia and even the world market and attracted large numbers of fans. Besides, our action movies have even successfully entered the world market. But it appears that in recent years, the cultural and creative industry has been unable to sustain this momentum, and Hong Kong has been overtaken by nearby countries such as South Korea. We cannot but heave a sigh with regret. As far as I know, the SAR Government is not unaware of the development potential of the cultural, arts and creative industry, and the Government of the previous term likewise designated this industry as one of the six new industries. Recently, two Mainland and American cultural enterprises joined hands to set up the Flagship Entertainment Group with Hong Kong as the base for its operating headquarters as they also noticed Hong Kong's development potential.

In order to successfully promote cultural and creative industrialization, the Government must formulate a comprehensive strategy covering policies and resource commitment. At present, the SAR Government's funding injection into the CreateSmart Initiative and the Film Development Fund through the Create Hong Kong is a good try and a good start. But a mere injection of several dozen million dollars each year is only better than none. Speaking of the policy level, people in the industry and I have cherished one hope over the years, the very hope that the authorities can draw up an integrated development strategy covering certain policy areas such as lands, talents and the legal system for the cultural and creative industry. But sadly, the Government has refused to fully consider the idea all the same.

I met some artists recently. They said that they had heard of the possible opportunities arising from "One Belt One Road", and they wanted to take part in it. But they thought that without any full explanation and guidance from the Government, they could hardly understand "One Belt One Road" in depth. The SAR Government must prepare talents for the "One Belt One Road" strategy, especially those well-versed in the cultures and languages of countries along "One Belt One Road".

In fact, if the local cultural and creative industry wants to draw on the "One Belt One Road" initiative to open up markets and establish a more diversified range of channels for promoting Hong Kong's unique culture to the outside world, it must depend on the Government's leadership. The full implementation of the tasks relating to our participation in "One Belt One Road" must begin with

cultural awareness. The SAR Government must strengthen its co-operation with the governments, think tanks and cultural organizations in those countries along "One Belt One Road", set up local offices, and establish a permanent communication platform for exploring various issues, such as multilateral cultural development planning, cultural exchange activities, cultural project co-operation and cultural trade. The SAR Government can likewise co-ordinate the efforts of tertiary institutions or social organizations in those countries along the "One Belt One Road" and in Hong Kong in organizing more cultural exchange activities, such as cultural festivals and arts festivals, as a means of increasing the understanding of students and youngsters about the "One Belt One Road" initiative, and motivating various tertiary institutions to train and prepare talents, especially language talents.

Besides, the SAR Government should provide support for the industry through its policies. One example is the conduct of market and social surveys to deepen the industry's understanding about the emerging markets along the "One Belt One Road" and the cultural backgrounds, traditions, ways of life and consumption habits in those places. Furthermore, the SAR Government should support business start-up with its funds and preferential policies (such as tax concessions) and strengthen manpower training. Finally, the SAR Government should maintain contact with stakeholders in the industry, so as to enable them to get a timely grasp of information on "One Belt One Road" and understand how they can take part in it.

President, I want to stress once again that "One Belt One Road" entails huge opportunities. Hong Kong's advantages lie in — but are not confined to — the four major traditional industries. Particularly, various countries in the international community today all follow the direction of drawing on their cultural and creative industries to enhance their soft power. Hong Kong honestly cannot afford to lag behind in its awareness. Therefore, I think that apart from giving further play to our strengths, the SAR Government should also lead Hong Kong to move one step forward in search of a new direction for sustainable development.

With these remarks, President, I support the original motion and the amendments.

Thank you, President.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, first of all, I thank Mr Martin LIAO for moving this motion, which gives us an occasion to hear Members' ideas and recommendations on the important topic of "One Belt One Road". This can help us in our work on "One Belt One Road".

The strategic blueprint of jointly building the Silk Road Economic Belt and the 21st Century Maritime Silk Road championed by the Central Government, collectively called "One Belt One Road", seeks to strengthen the political, economic and humanist co-operation of the 60-odd countries along the route. The emphasis is on a kind of peaceful and mutual development that sees the building of connectivity among the countries in the five areas of policies, infrastructure facilities, trade, capitals and people. It is hoped that this can bring fresh impetus for regional, or even global, economic development.

In late March this year, the Central Government published the Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road, which outlines the vision and blueprint of developing "One Belt One Road". It is mentioned in this document that the coastal places of the country, including the HKSAR, Macao and Taiwan, may play an active role in the building and development of "One Belt One Road" due to their high degree of economic openness, great economic strength and strong radial power.

The building of "One Belt One Road" has brought fresh ideas to global economic development. As one of the hubs along "One Belt One Road", Hong Kong can leverage on its unique advantage under "one country, two systems", and transform the opportunities presented by "One Belt One Road" into a fresh impetus for the development of Hong Kong. For quite some time, the SAR Government has conducted some initial studies on the role of Hong Kong under "One Belt One Road". It has held exchanges with different sectors on various occasions and shared with them its tentative ideas.

With the relative advantages we presently enjoy, we are well-equipped to serve as a major trade and economic platform along "One Belt One Road" and play a pivotal role in such areas as capital formation and financing, trade, commerce and logistics, high-end professional services, tourism and emerging industries. The SAR Government encourages all sectors to actively participate in discussions on "One Belt One Road". It will closely follow the development and join hands with the industries to explore new business opportunities.

President, I will first listen to Member's opinions on the motion and give a thorough response later on.

Thank you, President.

MR KENNETH LEUNG (in Cantonese): President, "One Belt One Road" is the concept of "Silk Road Economic Belt" and the "21st Century Maritime Silk Road". The concept originated from a visit by the President of China XI Jinping to Kazakhstan and Indonesia in 2013, when he respectively put forward the concept of cross-regional economic co-operation.

President, the concept has since become the talk of the town, and has also become the guideline for China's diplomatic policies. Many Mainland enterprises are now looking for business opportunities in countries along the route. In Hong Kong, "One Belt One Road" has also become the talk of the town over the last couple of months, and is frequently discussed and quoted. For instance, many people from all sectors in society have set up numerous platforms to discuss the business opportunities of "One Belt One Road"; in the financial market, a lot of investors try to look for shares with the "One Belt One Road" concept in search for opportunities to make profits.

Regarding the implications and opportunities of "One Belt One Road" for Hong Kong, some see it as a move to tie in with the country's major development strategy, while others consider that if Hong Kong fails to grasp this opportunity in a timely manner, we will lose our competitiveness. Nonetheless, under "one country, two systems", Hong Kong should enjoy a high degree of autonomy for its economy, and we surely are fully capable of formulating independent economic policies. Thus, under the environment of "One Belt One Road", the country has to take into account the overall strategy and political consideration when formulating policies. Given our unique cultural background and system, in particular our advantage of coming under the principle of "one country, two systems", Hong Kong should be able to identify our role to fit into this opportunity, which will allow us to create and expand the room for business. We should capitalize on our advantages in professional services in order to search for and grasp new opportunities.

Hong Kong's opportunity in "One Belt One Road" stems from our traditional advantages and expertise: our legal system, sound communication, financial system and corruption-free society. I must emphasize that under the

environment of "One Belt One Road", we are not supposed to rely totally on the support of the Central Government. Instead, we should proactively play a complimentary role. It is only under such circumstances that Hong Kong can secure the position we should have under the environment of "One Belt One Road".

In fact, I have several proposals which are more substantial. The first is about the Asian Infrastructure Investment Bank (AIIB). As early as March 2015 when this concept was brought up, I was the first Member expressing support for it. I published some views on *Ming Pao* in support of joining the AIIB. Moreover, I have also made a bold assumption that it would only take about \$10 billion for us to join. I wish that the Government can respond to this assumption of mine later on.

Some people hold the view that the SAR Government should fight for the establishment of the AIIB headquarters in Hong Kong as we enjoy a unique international status and should take the initiative to engage in international affairs. Besides, only if the headquarters are set up in Hong Kong will our uniqueness under "one country, two systems" not be wasted. Of course, this wish may not be granted since the country has expressed that the headquarters would likely be set up in Beijing. That said, as a member of the AIIB, Hong Kong's role is very important.

"One Belt One Road" covers many Asian countries in need of infrastructure investment. I believe that boosted by the establishment of the AIIB, our manpower resources, financing skills, and so on, can be of substantial help. Therefore, I advocate the setting up of a branch of the AIIB in Hong Kong to co-ordinate and support the manpower resources and research and development in the South Asian region. This branch can also proactively urge Hong Kong's talents in all fields to member states of the AIIB to make professional contributions. For instance, we can see that the infrastructure in Hong Kong has reached saturation. It is impossible for us to construct another three cross-harbour tunnels or five more runways. Thus, we have to export professionals to other Asian countries along "One Belt One Road" to help them develop infrastructure.

We cannot deny that if successfully implemented, "One Belt One Road" will bring business opportunities to many Hong Kong enterprises and development opportunities to professionals. President, Article 151 of the Basic

Law stipulates that "The Hong Kong Special Administrative Region may on its own, using the name 'Hong Kong, China', maintain and develop relations and conclude and implement agreements with foreign states and regions and relevant international organizations in the appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields."

Hong Kong is a small and export-oriented economy. The Basic Law has bestowed on Hong Kong a high degree of autonomy to plan our economic policies. It also allows us to join free trade agreements independent of China, and the recent Trans-Pacific Partnership Agreement (TPP) is one of the examples. There are views in Hong Kong society that the Government should consider joining the TPP. Surely, the TPP is only one of the international trade agreements but the views have highlighted one important point, that is, Hong Kong enjoys economic autonomy which allows us to search for new economic direction. Through multilateral agreements and exchanges and co-operation at various levels, we can expand Hong Kong's hinterland.

With these remarks, President, I support Mr Martin LIAO's motion.

PRESIDENT (in Cantonese): It is impossible for us to conclude all items on the Agenda before 10 pm tonight. I will suspend the meeting at around 8 pm. The meeting will resume at 9 am sharp tomorrow.

MR JEFFREY LAM (in Cantonese): President, "One Belt One Road" is a "big cake" which our country advocates to make with the joint efforts of the international community. Hong Kong should capitalize on its intrinsic advantages and also its advantages under "one country, two systems" to play an active part, so as to open up new areas of development for Hong Kong and also its financial, commercial, industrial and professional services sectors.

President, in the face of global competition, whether Hong Kong can consolidate its existing advantages and open up broader room for future development will all depend on our ability to grasp the very opportunity before us. "One Belt One Road" can provide Hong Kong with new opportunities. Also, it can boost our future development in very much the same way as how the

Mainland's reform and opening in the past drew Hong Kong businessmen to go north for development and boosted the prosperous development of Hong Kong's domestic economy, especially the services sector.

"One Belt One Road" covers more than 65 countries with a total population of 4.4 billion, accounting for 60% of the global population; its total economic output amounts to US\$21,000 billion, or 30% of the world's output. Such a gigantic market is truly rich in business opportunities.

Along "One Belt One Road" there are many Association of South East Asian Nations (ASEAN) countries, and Hong Kong is historically a transit point of the Maritime Silk Road. Many Hong Kong people have already made investment in these countries. Our country's promotion of the "One Belt One Road" strategy will speed up infrastructure development along the route. Furthermore, ASEAN countries have been increasing their use of RMB in recent years. All this provides very favourable conditions for Hong Kong to develop itself into the world's largest offshore RMB centre. At the same time, Hong Kong possesses the world's largest offshore RMB liquidity pool, and is the most important offshore RMB financing hub.

Most importantly, the rule of law in Hong Kong is sound, and there are information freedom and low tax rates; we also enjoy clear advantages in trade and business, investment, risk management and professional services, and we are able to offer Islamic financial services, sovereign risk insurance, and so on. Corporations and projects under "One Belt One Road" can come to Hong Kong for listing and capital raising. Furthermore, large financial institutions of the world can also establish region headquarters in Hong Kong, thus enabling Hong Kong to become the overseas financing centre the ASEAN.

President, in view of such a huge business opportunity, we should take the following steps in advance:

Firstly, the SAR Government should urge the Central Authorities to set up the treasury centre of the Asian Infrastructure Investment Bank (AIIB) in Hong Kong, because our facilities and mechanisms in this respect are well-established, and our markets of securities, foreign currencies and bonds are also well-developed and able to meet country's needs in respect of "One Belt One Road". Hong Kong's position as an international financial centre will thus be enhanced.

Secondly, the SAR Government should set up more Economic and Trade Offices along the Belt and the Road to facilitate government-to-government connection. Singapore is the only country along "One Belt One Road" in which Hong Kong has established an Economic and Trade Office. The business sector strongly agrees to the plan of setting up an office in Indonesia, as the country accounts for 40% of ASEAN's overall gross economic output and is the seat of the ASEAN Secretariat.

Thirdly, the Hong Kong Trade Development Council (HKTDC) should take the lead in identifying business opportunities under "One Belt One Road" by, for example, joining hands with different local chambers of commerce and trade associations to forge an intermediary platform of professional services for "One Belt One Road", so as to give small and medium enterprises more valuable information. The HKTDC should also organize delegations of the Hong Kong trade and business sector to other places, so as to identify the business along "One Belt One Road". At the same time, the HKTDC can also invite the business sectors of countries and places along "One Belt One Road" to visit Hong Kong and participate in major exhibitions or sale and exposition events. Through these occasions, the HKTDC should seek to promote Hong Kong as a tourist destination and facilitate development in various areas such as the economy, technology and trade.

Fourthly, Hong Kong must strengthen its roles as an "arbitration centre" and "product testing centre". "One Belt One Road" involves a significant number of countries and regions with different rules and regulations and state of affairs, so it is only natural for disputes and quarrels to occur over economic and trade collaboration and also quality standards. The gap has to be dealt with by a vast amount of professional service, and these are exactly the areas that Hong Kong is strong in: we have a sound legal system and goodwill. We are well-equipped to serve as a product quality testing centre and an arbitration centre for trade disputes under the "One Belt One Road" strategy.

Finally, Hong Kong must seize the opportunity of "One Belt One Road". We must get ahead of others and nurture our talents, young people in particular. "One Belt One Road" covers a wide range of land in Asia, Africa and Europe with differing business environments and cultures. The SAR Government should provide more opportunities for young people to study information

technology, and encourage them to take part in the development of countries and regions along "One Belt One Road", deepen their knowledge about the emerging markets along the route and facilitate their upward mobility.

President, we have many great opportunities for development in front of us, such as "One Belt One Road", AIIB, RMB internationalization and the opening up of the capital market, and so on. Hong Kong is capable of capitalizing on its intrinsic advantages and also its advantages under "one country, two systems" to play an active role. Doing so can arrest the declining trend of our competitiveness and consolidate our position as a global financial centre.

President, I so submit.

MR CHARLES PETER MOK (in Cantonese): President, since "One Belt One Road" was proposed by the Chinese Government, many people have kept talking about the strategy, yet I believe many of them do not really know the concrete action plan of "One Belt One Road" and Hong Kong's position in it. Two weeks ago, I made an effort to arrive early for a forum with the intention of listening to a local economist's briefing on "One Belt One Road". However, the briefing was very hollow and unable to offer anything concrete. It was basically a presentation based on several historical maps of the Silk Road. I almost thought that I was attending a wrong forum on history.

President, if "One Belt One Road" is really an opportunity and action plan of economic development, we must then approach it on the basis of commercial and economic principles. In the course of this, we must inevitably face certain problems of geopolitics and international politics. How are we going to position Hong Kong then? We cannot possibly consider it as a political trial, saying, "Anything proposed by the Central Authorities must be desirable and supported by the people. Amen."

I have also examined the opportunities and challenges brought by "One Belt One Road". From China's perspective, "One Belt One Road" can enable China to shift its market focus from the Mainland market of 1.3 billion people to a new market of 4.4 billion people, which accounts for 63% of the world's population. The new market has an economic scale of US\$21,000 billion, covering 29% of the world's new market, and including developing countries in

Central Asia and Southern Asia, as well as developed nations in Europe, especially Western Europe. To China, this is a change in direction from its past reliance on the United States and its over-dependency on Original Equipment Manufacturing. Therefore, "One Belt One Road" is packaged as an initiative to improve the infrastructure in Asia and the global economy, but in real it also serves the purpose of alleviating China's internal economic and social problems through a shift in development direction.

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

It is true that from the Self-Strengthening Movement in the late-Qing Dynasty to the policy of reform and opening by DENG Xiaoping, China's economic development and expansion have been in the direction of the ocean, the Pacific Ocean, and the markets on the other coast of the Pacific Ocean, predominately markets in the United States. "One Belt One Road" is a U-turn. It is mainly land-based and goes all the way westward along the coastline of the Indian Ocean.

However, the risks of doing business with developing countries are particularly numerous and particularly serious. The governments of many Silk Road countries along "One Belt One Road" are rife with corruption, highly unstable and of very low administrative efficiency. Corruption aside, political changeovers are frequent, and there is no democratic mechanism for effecting political changeovers. As a result, after each changeover, it will be necessary to approach the "new landlord" and begin negotiations afresh.

Actually, many of China's assistance and investments projects for developing countries in the past all ended up "unfinished" before the very eyes of the whole world. This time around, "One Belt One Road" defines the market scope, but the Asian Infrastructure Investment Bank (AIIB), another institution led by the Chinese Government, will be the main provider of financing. This implies that in order to develop new markets, China must to a very large extent shoulder the responsibility of providing the capital. Even England needs China to bring money to its market, not to mention the developing countries in Central Asia and in other regions.

Therefore, given the risks under "One Belt One Road" and the Chinese Government's previous approach of meeting all the expenses, I am afraid the Chinese Government itself will inevitably have to foot the bill at the end of the day. The approach of the AIIB and "One Belt One Road" to involve the participation of foreign governments is probably an attempt by the Chinese Government to rectify the problem of uncontrollable investment risks from the past. But even though our country is willing to bear such strategic risks, how should we Hong Kong people position ourselves? How should we help alleviate such situations and problems, so that we can avoid facing risks that we cannot bear?

Even if a business plan can specify the market demand, how can it be accepted when there is no concrete implementation programme? If there is no concrete implementation programme, how can there be any investors? Even though we know that the direction of development is westward, what kind of products or services are we supposed to offer? Even though the names of the countries involved are mentioned, does Hong Kong understand their needs? Even if we know that their needs are in sectors like finance, logistics, professional services or innovation and technology, what exactly are we going to do? These are exactly the economic and policy issues that we must be facing in the short term. In order to do our tasks, we must identify areas where facilitation by our Government is required.

Deputy President, Hong Kong has already lost its traditional industries, and this has totally stripped our economic development of any flexibility. The Government has no doubt started to talk about re-industrialization, but what will it do in terms of land, investment and tax concessions? We simply do not know. Actually, some industries, including the telecommunications sector which I am more familiar with, have long since been exporting Hong Kong's technology and management experience to many countries, including those in Central Asia. These industries have long since been following "One Belt One Road". How can they further diversify, intensify and enhance their efforts in this regard in the future?

Deputy President, the United States and 10 other countries or so announced the Trans-Pacific Partnership Agreement (TPP) in early October. Both China and Hong Kong have not signed the TPP. The TPP lays down various facilitation measures agreed by its signatories, such as those on market entry. It is therefore more specific than "One Belt One Road". The two of them are

different, and they do not need to be the same. However, both China and Hong Kong have not joined the TPP. Political factors aside, purely from the commercial perspective, Hong Kong should really take the two initiatives equally seriously and participate in both if there are commercial gains.

However, despite the Hong Kong Government's frequent mentioning of "One Belt One Road", most people in the business sector still think that there is a concrete plan. Even in the case of the AIIB, we still do not know how we can join. Regarding the TPP, we lag behind others even more. Can we join in the next round? For political reasons, China may still have a long way to go before it can join the TPP, but Hong Kong must seek to join both programs as a founding member. When cannot wait until China also joins, because by then we will realize we are also behind others even in the case of the TPP.

I so submit. Thank you, Deputy Chairman.

MR WONG KWOK-HING (in Cantonese): Deputy President, "One Belt One Road", that is the "Silk Road Economic Belt" and the "21st Century Maritime Silk Road", is a mega strategy on the development and further economic opening of China. Inheriting the historical elements of China's Silk Road, the concept of "One Belt One Road" is also a new and mega strategy worked out by our country in response to the latest economic environments and situations both at home and abroad.

Regarding our country's major development strategies, Hong Kong is able to perform an important role and turn such strategies into big opportunities in its future development. Thus, we must treasure the chance presented to us. As the most internationalized city in our country, Hong Kong can make considerable contributions to the "Five Links" in respect of policies, facilities, trade, financial integration and people. It is because Hong Kong possesses a solid foundation of capital raising, financing, wealth management, commerce and logistics and professional services. We are thus able to play a very positive role in the provision of skills, talents and capitals.

Hong Kong can contribute to the economic development strategy of "One Belt One Road", and gain benefits and profits in return. However, as President XI Jinping has remarked, "it takes a tough blacksmith to forge good iron". But when we look at the situation of Hong Kong in recent years, can we be so sure

that we can really seize this opportunity to our own benefits? In fact, I am deeply concerned. We can see that Hong Kong's society and economy have been faced with both internal and external problems in recent years. If Hong Kong people do not help themselves, we may not necessarily be able to gain any benefits despite our favourable geographic location. In recent years, many social issues have been utterly politicized, thus causing serious hindrance to Hong Kong. The illegal Occupy Central last year, the various "localist movements" and the advocacy of "desinicization" have caused social disorder and confused people's minds. Moreover, political parties and Members from the opposition camp have launched a comprehensive movement of non-cooperation and "filibusters" aimed at bringing chaos and damage and causing hindrance to Hong Kong's social progress. Should these problems remain unresolved, how can the Hong Kong society find a way out? And how can we grasp the opportunity under "One Belt One Road" and develop Hong Kong and improve people's livelihood?

Over the past few years, the current-term Government has undergone a very difficult time in its administration. The proposal to establish the Innovation and Technology Bureau championed by the Secretary for Commerce and Economic Development has been delayed for more than three years, not to speak of many others. This is already the last session of the term of the current Legislative Council, and Members from the extreme opposition camp led by People Power and the League of Social Democrats will propose 1 133 motions at the meeting of the Finance Committee to be held this Friday. If all these motions are really put to vote one by one, it may not be possible to complete the whole process until after Christmas. If the legislature obstructs the Government's policy implementation in this way, if the Legislative Council goes on doing its business like this, Deputy President, how can we grasp the opportunities offered by this mega strategy of "One Belt One Road", develop our society, improve Hong Kong's economy and the people's livelihood, and explore new ways forward for our community? We simply cannot do this.

Therefore, I must once again urge pan-democratic Members, opposition camp Members of this Council to stop waging radical political struggles. Please abandon the non-cooperation movement and abandon "filibustering". Their doing so will bring immense good to society and the public. It is only when they do so that we can really focus on identifying new opportunities and directions for Hong Kong's economy and enhance people's well-being.

So I wish to advise pan-democratic Members that despite our many differing political views and diverging thoughts and ideas, we all hope that Members can give priority to the interests of the public and society, and put these unnecessary differences aside to let the people's livelihood come first. I wish that you can tell us with concrete action that you will end these non-cooperation movement, that your "filibuster" will be stopped, so as to allow the passage of the proposal regarding the Innovation and Technology Bureau on Friday, that is, the day after tomorrow. If a proposal introduced by the Government to establish the Innovation and Technology Bureau like this can still be procrastinated for over three years, and remains unable to be passed after a full Legislative Council term, how can Hong Kong seize the opportunity of "One Belt One Road" to seek a way out and genuinely develop its economy and improve the people's livelihood? Therefore, I can see that these are just empty words. *(The buzzer sounded)*

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up, please sit down.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, a person who does business not for personal benefits is a great businessman. A person aspiring to great achievements must learn the art of sharing, instead of putting all the benefits into his own pocket. This can best describe our decision on whether to participate in the grand strategy of "One Belt One Road".

Deputy President, "One Belt One Road" is indeed the biggest opportunity in a century. It is not only a name that evokes hope but also the key to the land of ventures for the people. It is not only a ladder up which our country seeks further progress and convergence with the world following its rise but also a springboard enabling the young people of the present era to embrace the outside world and create their own future. How is "One Belt One Road" related to young people? How can they make the best use of this key of hope? To begin with, they must be venturesome, inquisitive and willing to try new things. They must also be able to look very far ahead in ways that are both discerning and insightful.

Deputy President, when people of my generation were young, they generally wanted to explore and look at the outside world. Homeownership was surprisingly not the biggest or only dream of the young people back then. We

wanted to go outside Hong Kong in order to widen our horizons. I think the young people nowadays are similar because I know that many university students want to defer their studies for one year and venture outside Hong Kong.

I may perhaps share with you my personal experience here. I graduated from The Chinese University of Hong Kong in 1987. At that time, most students who wanted to further their studies would go to the United Kingdom and the United States. But I wanted very much to do something different and tread a different path. I thus chose a path which was then not much sought after, and which was perhaps very difficult to tread at the time. I went to Beijing to study law, and I even studied the Basic Law. At that time, this was an option completely devoid of any economic value. However, as a young woman at that time, while desiring knowledge, I also wanted to take a good look at my own country. It was because the secondary school students of my generation knew very little about our country. We only learnt things about our country in the comfort of our air-conditioned classrooms.

Looking back, I would say it was very fortunate of me to have an opportunity to grow up with all those classmates or that generation of young people in Beijing. Together, we experienced how China transformed itself from a backward country with very scarce resources into a great economic power of the world. No one could have dreamt of this back then. And, neither could I imagine what would happen to all those hard-up classmates of mine who could only have one shower ticket a week and who could not even afford to buy any correction fluid. Grasping the opportunities presented by the economic take-off of China over the past two decades or so, many of them have already become millionaires, billionaires and even multibillionaires today. This experience in my life has since enabled me to handle my professional and business dealings with China from one more perspective.

It was already more than 20 years ago in retrospect. The one question that the generation of young people today should ask is: what kind of new opportunities can "One Belt One Road" bring to young people? Many countries along "One Belt One Road" are still underdeveloped; therefore, honestly speaking, how can we prove the success of "One Belt One Road"? I think success in economic diplomacy is one proof, but the most important proof must be the availability of business and employment opportunities, and also the

attainment of economic synergy. When we think about the whole thing more clearly, we will realize that it is all like a big cake, a huge mountain, of economic opportunities. Are we capable of eating it all up?

"One Belt One Road" covers many countries whose cultures, political systems, economies, religions and languages are very different. To Hong Kong people, particularly young people, this may be very appealing and challenging. Nevertheless, in order to begin our ventures in these countries, we must first discard our "Hong Kong chauvinism". We must humbly seek to understand the religions, cultures, languages, and even legal and labour policies of other countries. It is only by doing so that we can build up connections, reduce language barriers and strengthen the basis of co-operation in all those countries that are so strange to us initially.

In my opinion, young people nowadays do have many prospects. Sadly, we often hear them talk about their lack of prospects and the impossibility of homeownership and upward social mobility for them. The strategic plan of "One Belt One Road" will bring them exactly the kind of new prospects they desire, though these prospects will not befall them for no reason. Some employment opportunities are especially suitable for young people in particular. If a large enterprise wants to develop its markets in these countries, it must first send an advance party to look for opportunities and ascertain that both sides can co-ordinate their own resources. In this regard, young people are suitable as they venturous. Twenty years ago, some enterprises likewise sent people to start their ventures in other places.

Hong Kong people are venturous. I am totally confident that our young people can grasp these opportunities. The only problem lies in their mindset. I hope that our young people are willing to grasp the opportunities brought by "One Belt One Road". I hope they can open their minds, first try to learn and understand the rules of the game, put aside their prejudices and sense of alienation, make new friends and venture into a brave new world. But this brave new world is not exclusive to the young people in Hong Kong or China. I have seen lots of young foreigners coming to Hong Kong and China to pursue their dreams. This is a fair game. If we do not set off, other people will overtake us. Hence, I hope that the young people nowadays can grasp this advantage (*The buzzer sounded*) ...

DEPUTY PRESIDENT (in Cantonese): Dr LEUNG, your speaking time is up. Please sit down.

DR PRISCILLA LEUNG (in Cantonese): ... Deputy President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, the Chief Executive has made this widely-known remark lately: "Three runways are better than two". If I fit this into today's debate, it would be "Two Belts One Road" is better than "One Belt One Road".

Why don't we engage in "Two Belts One Road"? What does "Two Belts One Road" mean? As we all know, the "One Belt One Road" proposed by China links up more than 60 countries form a trade road along the western direction to. As for the other "one belt one road", it refers to the Trans-Pacific Partnership Agreement (TPP) advocated by the United States. Surely, China has not yet been invited to join and I do not know if Hong Kong has been invited. We may have to ask Secretary Gregory SO. From Hong Kong's perspective, we should join both. Logically, "Two Belts Two Roads" is better than "One Belt One Road". As an international city, why can Hong Kong only join China's "One Belt One Road" and not the TPP?

However, I must first make it clear that the Labour Party is against "Two Belts Two Roads" and even the TPP. In our opinion, when investors reach out to sign trade agreements with other countries in the world, or when governments clinch trade agreements between themselves (TPP included), they will not consider how to let the people share the fruit of trade. Of course, the TPP comes with some window dressings as it requires the signatories to respect the basic human rights of workers. Window dressings though, the TPP has at least included labour rights and interests. As for "One Belt One Road", there is still no agreement in sight. I do not know if there will be anything specifying labour rights and interests. I am not only concerned about the rights and interests of workers in Hong Kong, but also their rights and interests in the three regions of Europe, Asia and Africa. No matter which country we are talking about, workers should be respected and should not be exploited. Thus, it is my view that if we are to join, we should join both belts. Yet, in the end, it is impossible for the people to share the fruit.

Moreover, it looks like the aim of the motion and amendments today is to turn "One Belt One Road" into a political mission, and the Chief Executive is to give it strong support as his political mission. Yet, what in fact are the concrete details? Even after listening to Mr Martin LIAO's speech, I have not picked up any, apart from hearing them ask people to invest there. We oppose the presence of any political missions in economic activities. In order to package this political mission ... I feel that Mr Martin LIAO is turning "One Belt One Road" into a master key — "One Belt One Road" encompasses virtually everything, from professional services to finance and the diversification of Hong Kong industries. So long as we join it, economic development in the next 50 years will be fine. Would Members please abandon such a mindset? No businessman or capitalist should get involved in any political mission. They should consider investing in places where they can make money. Nonetheless, someone has turned it into a master key.

Earlier in her speech, Dr Priscilla LEUNG said that "One Belt One Road" was the key of hope for young people. What correlation is there between the two? I am not against youth "going global", but they should be allowed to choose where they want to go. I think the entire debate is turning "One Belt One Road" into a political mission. Mr LEUNG Chun-ying likes to mention "going global". Hong Kong itself is an international city, and "One Belt One Road" is a regression. An international city should not only bother itself with political missions.

In addition, we also oppose waging political struggle in economics, that is, speaking highly of those who follow the instructions and denouncing those who do not. In my opinion, the recent denouncement of Mr LI Ka-shing is a very good example. For no reason, the Liaowang Institute denounced Mr LI Ka-shing as ungrateful. In response, Mr LI said such a remark sent chills down his spine. It is no secret that Mr LI and I are against each other on labour issues but under such circumstances, I have to say this for him: Do not etch on the back of the capitalists the words reminding them to repay the party with supreme loyalty, and do not denounce them if they do not follow the Party's instructions. Mr LI Ka-shing was denounced because of a commercial decision he made. Does it mean that if capitalists do not invest in "One Belt One Road", they will be denounced? I find this a complete distortion.

Therefore, I support the words of Mr LI Ka-shing that there is no need for one to repay the Party with supreme loyalty, and people should be allowed to

make their own decision. Surely, on labour issues, he and I will continue to confront each other, but I do not think that capitalists should be compelled (*The buzzer sounded*) ... to accomplish some political missions.

DEPUTY PRESIDENT (in Cantonese): Mr LEE, speaking time is up, please sit down.

DR LAM TAI-FAI (in Cantonese): Deputy President, "One Belt One Road" is a visionary strategic macroeconomic plan of our country. I am glad to see that the SAR Government has made all-out efforts to promote "One Belt One Road". Government officials from the Chief Executive and Secretaries of Departments to various Directors of Bureaux, including Secretary Gregory SO who is here, have been bringing up this subject. I think the motion today is meaningful in the sense that it gives us an additional opportunity to know more about our country's policies and enables us to explore the roles Hong Kong that can play in this initiative and the business opportunities it will bring us.

"One Belt One Road" is a strategic idea of developing a "Silk Road Economic Belt" and a "21st Century Maritime Silk Road" proposed by State President XI Jinping in 2013, under which our country plans to construct a multi-national economic belt and an economic and trade co-operation corridor passing through Asia, Europe and Africa. Under this plan, more than 60 countries and some 4.4 billion people, representing 63% of the global population, are covered along the "One Belt One Road" alone. The aggregate economic volume of these countries amounts to US\$21 trillion, accounting for 29% of the world total. Last year, the total trade in goods between China and countries along the route exceeded US\$1 trillion in value, representing 26% of the world total. It is an amazing figure. However, as there are many developing countries along "One Belt One Road". Since these emerging markets have relatively backward hardware, they will have great need for infrastructural facilities, resources development, co-operation with industries and financial sector. Hong Kong can look for business opportunities in these aspects.

Deputy President, Hong Kong has evolved from a fishing port to the metropolis it is today. It has fostered different professional talents in the process. The SAR Government can thus proactively ask the Central Government for more opportunities for Hong Kong's involvement when the latter

takes forward "One Belt One Road". Hong Kong can make use of its own experience and play a guiding role to lead the way. For instance, our long-standing four pillar industries, namely, financial services, trading and logistics, commercial and industrial professional services and tourism, have all along enjoyed a clear advantage in the international market. As far as this comparative edge is concerned, Hong Kong should have a promising future in the "One Belt One Road" strategy.

Financial services are an example. Hong Kong has developed itself into the world's largest offshore Renminbi business hub and it possesses the world's largest pool of offshore Renminbi liquidity. As "One Belt One Road" takes shape over time, trading and other economic activities in countries along the route will probably increase. This in turn will trigger the demand for Renminbi trade settlement. Financial institutions in Hong Kong can provide Renminbi cross-border trade settlement services for these countries or places which trade with China, in order to reduce exchange risks borne by the two sides. Hong Kong can also act as a fund-raising or financing platform because we have a variety of professionals experienced in initial public offering fund-raising, syndicated loans, private equity funds, general bonds, "dim sum" bonds, Islamic bonds, and so on. I believe we can tailor a suitable financing combination with lowest costs for "One Belt One Road" countries.

Besides, as an international trading centre, Hong Kong has a strong business and people network. We have a sound legal system and observe the spirit of contract, which have earned Hong Kong a favourable reputation in the international market. All these criteria will be conducive to assisting governments and enterprises along "One Belt One Road" in finding suitable partners and closing business co-operation deals.

Regarding trading support, Hong Kong is an international aviation and maritime hub with a world-wide logistics network. In the future, Hong Kong can further strengthen its connection with "One Belt One Road" countries, and enterprises can make use of Hong Kong's high-end logistics services to achieve global supply chain management. Besides, regarding professional services, Hong Kong has a talent pool in the realms of accountancy, law, construction, works and management. Hong Kong can provide high-quality professional support and participate in infrastructure projects and economic and trading

activities in these places regarding fund-raising and financing, risk management, enterprise management, auditing and accounting, logistics and sale, brand building, arbitration, planning and construction or engineering surveying.

However, tourism among our four pillar industries is a cause of concern. Any drop in the number of Individual Visit Scheme visitors would seriously affect the business of the retail, hotel and other related industries and push up the unemployment rate. Hence, the Government can assist the industry to seize this opportunity to build up the clientele along "One Belt One Road" regions and diversify tourism development. However, given that Hong Kong has not yet established strong links with some of the regions along "One Belt One Road", such as Central Asia, West Asia and Central Eastern Europe, the SAR Government must set the priority for the development of these emerging markets and draw up a comprehensive strategy to look for business opportunities, I mean co-operation opportunities.

My suggestion is that Hong Kong should first focus on regions with stronger economic and trade ties with us, such as Southeast Asia, South Asia and the Middle East, in particular deepening our connection with countries and places like India, Indonesia, Vietnam and Dubai, and proactively participate in and enter into bilateral or multilateral economic and taxation agreements with them, and step up promotional, experience sharing and training efforts.

Deputy President, the SAR Government has often been criticized for lacking foresight and strategies for long-term economic development. Today, lying before us is "One Belt One Road". It is packed with development opportunities, and could be a major economic growth area for Hong Kong in the coming decades. I very much hope that the SAR Government can take advantage of this opportunity to lead and support various industries, find new direction for the economy of Hong Kong and take forward economic development. My greatest worry is that the SAR Government may only pay lip-service and let this rare opportunity go down the drain, thus further weakening Hong Kong's competitiveness.

Deputy President, I so submit.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, first of all, I would like to thank Mr Martin LIAO for proposing the original motion because the topic concerns the long-term development of our country and new regional co-operation opportunities for Hong Kong in the future.

The Central Government is now formulating the Thirteenth Five-Year Plan. The National Development and Reform Commission announced in March this year the Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road. The document outlines our country's strategic blueprint for taking forward the "One Belt One Road" proposal as well as its effort in promoting the establishment of the Asian Infrastructure Investment Bank (AIIB) and the Silk Road Fund. Under the "One Belt One Road" initiative, an economic corridor running through Asia, Europe and Africa will be established to connect the vibrant East Asia economic circle on the one end and the developed European economic circle on the other and it will also encompass an extensive hinterland of huge development potential. The route covers over 60 countries and 4.4 billion people, representing 63% of the world population. The economic value of this initiative amounts to US\$21 trillion, accounting for 29% of the world total. It is also a key manufacturing base and the main supply of strategic resources for the world. This development strategy demonstrates our country's commitment to embracing economic globalization, expanding and deepening its opening-up and facilitating a new form of regional economic co-operation, in order to achieve connectivity among countries along the route on the fronts of infrastructure facilities, trade and logistics and financial investments. The document also mentions that our country will deepen co-operation with Hong Kong, Macao and Taiwan, so as to enable these places to give full play to their unique advantages, and let them participate and assist in the construction of "One Belt One Road".

Deputy President, a subject that Hong Kong society needs to urgently deal with is how to optimize Hong Kong's industrial structure and strengthen its overall competitiveness, so as to facilitate the sustainable development of our economy and create more opportunities for the new generation to move upward. With our country as our support and the implementation of "one country, two systems", Hong Kong enjoys a comparative advantage and benefits from the convergence of the "five flows", namely the flow of people, goods, capital, information and services. Hong Kong can provide world-class professional services in respect of commerce and trade, engineering, construction, finance, law, accounting, innovation technology and application, and so on. Hong Kong is well-equipped to act as a "super-connector" in a number of areas and provide

different platforms (such as those for fund-raising and financing, high-end professional services, emerging industries and business facilitation) for participation in "One Belt One Road" development. That is why at the debate on the Appropriation Bill 2015, I said that various sectors in society should work hard to strive for the inclusion of "One Belt One Road" as a vision of economic development of Hong Kong, so as to promote the development of our industrial structure in the direction of high-value-added services and diversification. This approach will not only explore new openings for professionals of all kinds and enterprises of all scales, but will also facilitate the opening up of the country to external economies and assist Mainland enterprises in going global, thus creating a win-win situation.

I urge the SAR Government to proactively examine the roles Hong Kong can play in the AIIB. For instance, we can strive for setting up the AIIB headquarters in Hong Kong, as proposed by Mr Christopher CHEUNG. At the same time, the authorities should entrust designated officials to explore jointly with professionals of the commercial and industrial sectors how Hong Kong can take full advantage of the development opportunities brought by "One Belt One Road", formulate policy initiatives and make corresponding resource investments, so as to showcase Hong Kong's professional service branding to countries in the region, strive for the Mainland's recognition of Hong Kong's professional qualification and qualities, assist Hong Kong's professional service enterprises in setting up offices in the Mainland and provide one-stop consultation and support services, with a view to taking forward professional service co-operation in the two places. The Government should actively encourage engineering companies in Hong Kong to jointly bid overseas projects with Mainland enterprises and assist Hong Kong science and technology (S&T) enterprises in participating in regional S&T co-operative research and development projects.

Deputy President, I was recently invited to the Eleventh Pan-Pearl River Delta (PPRD) Region Co-operation Joint Conference for China Association for Science and Technology (CAST) and S&T Associations cum the Forum on the Innovative Development of S&T Park in the PPRD Region. It was an inspiring experience. Deputy President, I declare that I am a member of the National Committee of the CAST and the Director of Hong Kong S&T Parks Corporation, but the latter does not involve any actual pecuniary interest. The PPRD Region Co-operation Joint Conference for CAST and S&T Associations is hosted by the "9 plus 2" regions in turns and the eleventh conference was held in Hong Kong. As an old saying goes, "a close neighbour is better than a relative afar".

Co-operation among the PPRD Region has been in steady progress, which has facilitated the establishment of important platforms such as the PPRD Region Co-operation and Development Forum and Trade Fair and perfected related co-operation and co-ordination mechanisms on an ongoing basis. Last year, leaders in the forum signed a Joint Declaration on Deepening PPRD Regional Co-operation (2015-2025). In the Joint Declaration, infrastructural facilities, industrial investments, technology and culture, informatized facilities and environmental protection are chosen as subjects with great growth potential for deepening co-operation.

I hold that Hong Kong should seriously draw on such experience and seize the new opportunities brought by the new ideas and new policies that our country has in regional development.

Deputy President, the idea of "One Belt One Road" represents a brand-new development strategy of our country. In other words, China will make full use of global resources and the international market to facilitate the transformation of its economy, so as to achieve a more balanced development in industry and services and transform itself from a "world processing plant" to a world economic hub in the 21st century. Hong Kong should make good use of its international experience and edges in commerce and trade and infrastructure works. Our young professionals can also make use of their innovative and creative vitality to look for business opportunities in this regional co-operation endeavour. Professionals in engineering, construction, S&T, finance, law and accounting will also have a promising future.

Deputy President, colleagues of the Business and Professionals Alliance for Hong Kong and I support the original motion proposed by Mr Martin LIAO and the amendments proposed by Mr Christopher CHEUNG, Mr CHAN Kam-lam, Mr NG Leung-sing and Mr MA Fung-kwok.

I so submit.

MR JAMES TO (in Cantonese): Deputy President, many colleagues have talked about some special economic systems related to "One Belt One Road". But I wish to focus on the unique roles that Hong Kong can play in "One Belt One Road".

Deputy President, "One Belt One Road" will involve the different social and legal systems of many countries. Hong Kong is in possession of a sound legal system, and its judiciary commands worldwide recognition for reasons of its high standard, independence and respect for the rule of law. All this can enable Hong Kong to play an important role in "One Belt One Road". In contrast, the Mainland is still under the influence of many traditional Chinese legal concepts. There are still lots of conflicts with the international community, and this has deterred some foreign investors. Hong Kong is part of China, but it has its unique role and systems. The Basic Law provides that Hong Kong enjoys judicial power and the power of final adjudication. Article 85 provides that "(t)he courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions." The independence of the Hong Kong Judiciary and the absence of any government intervention can give confidence to investors.

Hong Kong practises the common law system, a system which is familiar to the international community. Besides, and we are the only common law jurisdiction in the territory of China. The legal system in Hong Kong is similar to the systems in the United Kingdom and the United States in many ways, so it can serve as our country's window on the world. Both Chinese and English are used the languages of the law and the judiciary here in Hong Kong, and they are equal in legal status. In other words, foreign enterprises will not encounter any language barriers here. This can add to the confidence of investors.

Deputy President, in respect of helping Mainland enterprises to "go global" and foreign enterprises to "come in", the legal profession of Hong Kong can provide the required legal services. For instance, before any investment is made, our legal professionals can assist enterprises in getting to know the local legal environment; after investment is made, we can assist enterprises in drafting and executing contract provisions. In the event of any disputes which necessitate litigation, legal professionals can assist enterprises in resolving their disputes through international arbitration or commercial mediation. Besides, we can also assist enterprises in making overseas investment, defusing merger risks and effectively protecting overseas investment assets. The rule of law in Hong Kong is well-developed, and this will give confidence to Mainland and foreign investors.

Deputy President, it is very likely that international commercial disputes may arise in the development of "One Belt One Road". When it comes to arbitration and mediation, Hong Kong has a sound system of arbitration and alternative dispute resolution. As an international arbitration centre, we can act as a neutral location for Mainland and foreign enterprises to conduct arbitration. Many well-known international law firms have set up their branch offices in Hong Kong. Legal practitioners in Hong Kong are experienced in, among others, civil and commercial law and are of top professional standard. They can provide a variety of services for dispute resolution.

Regarding arbitration, the Arbitration Ordinance in Hong Kong is based on the Model Law on International Commercial Arbitration adopted by the United Nations Commission on International Trade Law. It adopts an international arbitration regime familiar to the commercial sector. Arbitration awards made in Hong Kong are enforceable in over 150 signatory states of the New York Convention. Many world-class arbitration and legal institutions have established their presence in Hong Kong. Moreover, Mainland enterprises can benefit from conducting arbitration in Hong Kong because Hong Kong and the Mainland are similar in culture and geographically close to each other. They have signed an agreement on reciprocal enforcement of arbitral awards made in the two places, making it possible for arbitral awards made in the Hong Kong SAR to be effectively enforced in the Mainland.

Apart from arbitration, Hong Kong also advocates the use of mediation services. With the enactment of the Mediation Ordinance in January 2013, Hong Kong has laid down the legal foundation for conducting mediation on the premise of maintaining flexibility in the mediation process.

Hence, Deputy President, we should further consolidate the rule of law in Hong Kong and make the judiciary even more independent. What is even more important is that democratic mechanisms should be established to protect our judicial independence and rule of law. The "talk of transcendence" made recently by the Chief Executive and all other remarks that may undermine judicial independence and our confidence in the rule of law are damaging Hong Kong's systems and are indirectly or directly undermining the importance of the functions that Hong Kong can perform in "One Belt One Road". I hope that all of us, including the Central Government, the SAR Government or any parties that

may have a chance to consolidate the systems in Hong Kong, can think twice and make an effort to enable Hong Kong's systems to play a more important role in our country's strategic ideology and policy of "One Belt One Road".

DR KWOK KA-KI (in Cantonese): Deputy President, "One Belt One Road" is a mammoth economic project. According to the estimation made by some investment experts, the value of "One Belt One Road" is as high as US\$2 sextillion. Sixty countries and 4.4 billion people will benefit, accounting for 60% of the global population. If the strategy can proceed smoothly, China will be able to do business with places all over the world and achieve joint development with countries which share the same aspiration.

Nevertheless, when we look at the diplomatic relationship that China has bought with money over the years, we will see quite a different picture. In order to seek diplomatic recognition or the support of developing countries, China has invested huge sums of money in many places over the years (including Asian and African countries). Regrettably, many business partners of China are undemocratic countries or politically backward nations in Africa, so lots of money has been pocketed by corrupt officials; huge economic benefits have fallen into the hands of individual businessmen; and much of the investment made and the assistance granted by China has been misappropriated through irregular channels. All this is not anything new.

On the other hand, when they learn that over US\$2.1 sextillion will be injected into "One Belt One Road" for the purpose promoting economic development, both Mainland people and Hong Kong residents will probably ask, "How should the people react to this mammoth investment plan of the Mainland Government?" If we take a look at the present situation in the Mainland, we will notice that as at 2011, there were still over 50 million illiterate people in the Mainland and only about 40% to 50% of school-age children in many remote areas and relatively backward provinces were receiving schooling. In many poverty-stricken villages, due to the lack of sufficient fund or the absence of health insurance protection, a lot of people do not have the means to seek medical treatment when they fall ill.

In a press report published in the United Kingdom in 2013, it was revealed that a 23 year-old son of a couple in Huangyan District, Taizhou of Zhejiang in China had sustained severe injury in a car accident in 2006, resulting in complete paralysis from the neck below. However, as they did not have the financial

means to meet the expensive medical fees, the 23 year-old young man named FU Xuepeng was taken home from hospital by his parents. It was reported that in the following five years, he was kept alive by his parents and other family members who produced a home-made respirator with RMB 200 yuan and took turns to operate the "machine" manually round the clock at home, pumping air into his respiratory tract. This is the actual situation in our country now.

In the absence of any further report after 2013, I do not know if the young man is still alive. Nevertheless, can we realize what happened? In a country regarded as so affluent, the members of a family in a village were left to operate a home-made respirator manually for five years round the clock in order to keep a young man alive. What does it suggest and what has become of our country?

There is a very big wealth gap both in the Mainland and Hong Kong. Official documents show that 95% of the people are covered by government health insurance. This looks like a marked improvement over the percentage recorded 10 years ago (30%). Regrettably, due to systemic problems, large sums of money are pocketed by pharmaceutical companies, hospitals and even medical doctors through the purchase of expensive drugs. We cannot help wondering, how much help can this "white elephant" economic project bring to our fellow countrymen?

As pointed out in a recent survey conducted by Mainland academics, there are still approximately 70 million people living in poverty at present. The figure is saddening to many Chinese people because poverty has deprived many people of basic education and healthcare, and even decent clothing. On the other hand, an interesting news article published in October 2015 revealed that our country had refused to increase the percentage of its share in the United Nations membership dues from 5.15% to 7.92%. The Deputy Permanent Representative of the People's Republic of China to the United Nations at that time said that China's overall economic power was large, but its per capita income was low, so it would not accept a share which was beyond its affordability.

Seeing all this, we cannot help asking why our country still spends tens of billions of dollars to establish the Asian Infrastructure Investment Bank and makes extensive investments in foreign countries. Are they out of their mind? Have they been driven by their vainglory to ignore the people? With so many people living in poverty and deprived of the chance to receive schooling and

medical treatment, can our country abandon them and still make huge overseas investments in some "white elephant" economic projects serving just a diplomatic purpose? This is the misery of the Chinese people.

I so submit. Thank you, Deputy President.

MR ALBERT HO (in Cantonese): Deputy President, "One Belt One Road" is a major political, diplomatic and economic development policy under the rule of XI Jinping. The motion moved by Mr Martin LIAO today seeks principally to discuss the policy from a very positive and proactive perspective. However, I would like to look into some areas from another angle and bring up for discussion certain points which warrant our concern and worry.

The basic purpose of "One Belt One Road" is to enable the Chinese economy to "go global". China is the second largest economy of the world. In its economic dealings with many small countries, it is faced with many problems related to labour affairs, environmental protection and even human rights. The China today is different from the China 30 years ago, in the sense that it has indeed made huge progress in its development over all these years. However, in the past, for reasons which one may or may not approve of, China was often regarded by developing countries in the Third World as an assistance-provider and an ideological leader. But nowadays, in the course of development, China has often put on the airs of a great power of the new age. This has already drawn various allegations that it is trying to deprive or even rob the Third World of its resources. This is the main difference and the cause of many disputes.

Let me cite some examples to illustrate the point. In March this year, the *Global Times* reported that China's massive capture of tuna had endangered the economies of some small island nations. Another example is the Chinese-backed Colombo Port City project suspended by the Sri Lankan Government. The project involves an investment of US\$1.4 billion but China was accused of proceeding with the works without a construction permit and against the requirements of environmental impact assessment. In January this year, 155 lumberjacks from China were arrested in Northern Burma. Chinese businessmen were accused of engaging in illegal mining of jade stones and forest trees, and of involving themselves in the civil war of the area. In 2014, opposition to the expansion project of the Letpadaung copper mine jointly funded by Burma and an enterprise from Mainland China led to a public protest in which one person died and 20 people were injured.

Deputy President, Hong Kong is a place which upholds the rule of law, emphasizes human rights and treasures freedom. We cherish many universal values. Hence, when we participate in or support the development of "One Belt One Road", do business, or support the business activities of any countries or enterprises, we must respect the law and the many environmental requirements of other countries, and uphold the values of human rights and labour rights. This is one very important point.

I would like to cite one more example. According to the Report of the United States Congressional — Executive Commission on China, 88% of fake goods seized by the United States Customs and Border Protection in 2014 were from China, of which 63% were from the Mainland and 25% from Hong Kong. This is a very serious problem because in 2012, only 12% of fake goods seized were from Hong Kong but the proportion has now increased to 25%. Damage has already been done to the reputation of Hong Kong.

On the other hand, as everybody knows, "One Belt One Road" actually faces many problems. As mentioned earlier, this initiative involves a large number of countries with different political backgrounds, languages and cultures. There may have been previous disputes, or even border disputes, among some of these places. Many countries along the route are relatively low in their levels of development and their rule of law is even very rickety. Under such circumstances, there will be many challenges. How can we do the job well?

As for infrastructure development, co-operation is apparently not difficult. From the infrastructure blueprint, we can certainly see that massive infrastructure construction is going on all over the country, from the remotest Great Northwest to Hainan Island in the south, but we cannot see how these projects will converge with those in Hong Kong. Many development projects are still mere concepts and blueprints at this stage, and one may even say that they are just empty loft talks. Frankly speaking, when a proposal was put forward a few years ago to develop the Great Northwest, many people thought that it was an opportunity we must seize, but what opportunities has the idea brought us so far? We do not really know. Hence, in respect of the initiative under discussion, which is even greater, loftier and emptier than the Great Northwest idea, I frankly do not know what Hong Kong can get it.

Anyway, I still want to raise one point out. Hong Kong will still have a role to play. As pointed out by Mr James TO just now, Hong Kong is a legal service centre with a sound legal basis and the tradition of the rule of law.

Mr SIN Chung-kai will speak on behalf of the Democratic Party to explain that Hong Kong can play a good role in providing financial services such as capital raising, lending, financing, and so on.

However, the last point I would like to make is that Hong Kong is a free city and it is not subject to the strategic trade controls of many foreign countries, especially Western European nations. This is unique to Hong Kong. Hence, I must finally point out that we have to engage ourselves globally in the days to come. It will of course be a good thing to tie in with the development of the Mainland on various fronts and leverage on the Mainland, but it is most important for us to pursue excellence and maintain our standards as a first-class world city.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, in his visit to Central Asia and Southeast Asia in 2013, XI Jinping brought up the vision of "One Belt One Road". Regarded as "China Reform 2.0", it is the theme of China's opening up to the world in the next 30 years. In this great era, we must explore how Hong Kong is to position itself.

(THE PRESIDENT resumed the Chair)

In the age that sees the implementation of the "One Belt One Road" strategy, Hong Kong must perfect its status as an international financial centre. A look at the various reports on competitiveness ranking this year shows that Hong Kong's rankings have risen slightly. Yet, if we pay attention to our scores in individual items, we will see that the Heritage Foundation has downgraded Hong Kong in respect of corruption perceptions. Meanwhile, the International Institute for Management Development in Lausanne, Switzerland is concerned about the economic impact of population ageing on Hong Kong, and recommends that we should encourage industrial diversification.

Recently, former Chief Secretary for Administration Rafael HUI and former Chief Executive Donald TSANG have been prosecuted separately by the Independent Commission Against Corruption for alleged corruption and failure to declare their interests. In the case of Chief Executive LEUNG Chun-ying, his secret and undeclared acceptance of £4 million from UGL may also contravene the rule that requires the Chief Executive to declare any paid outside work. This trend unavoidably makes the outside world worry that Hong Kong's core value of

freedom from corruption may be undermined. A clean social, governmental and public administration framework was the cornerstone of the economic prosperity enjoyed by Hong Kong in the past.

The latest Global Financial Centres Index (GFCI) released in September indicated that Hong Kong remained the world's third largest financial centre. The GFCI pointed out that a city's reputation as a financial centre had a decisive effect on whether the city could attract talents. The GFCI also cited the comments of an investment banker in Hong Kong on the city's reputation. Let me quote as follows: "Hong Kong's reputation has suffered because of the worry about China becoming too influential in the running of the city."

To maintain its competitiveness, Hong Kong must first realize its competitive edge, especially in respect of economic freedom, press freedom, freedom of information and clean and transparent government. Also, it must uphold a fair and open business environment and an impartial judicial system. The excessive intervention of China in Hong Kong's daily operation in recent years will definitely undermine international investors' confidence in the systems of Hong Kong. In the long run, Hong Kong will be reduced from a world financial centre to a mere financial centre of China.

Hong Kong itself enjoys the unique advantage of having connections with both the Mainland and the rest of the world. As "One Belt One Road" becomes the growth engine of our country's economy in the future, we must amplify the advantage of our system, and capitalize on our well-developed financial infrastructure as a means of turning Hong Kong into a major financing platform providing fair and highly services to "One Belt One Road". We must also persuade the AIIB to choose Hong Kong as its headquarters, sub-headquarters, or one of the two headquarters.

China will make colossal investments in countries along "One Belt One Road", and overseas enterprises co-operating with China also have financing need. This will bring massive market opportunities to Hong Kong. Through the issuance of various RMB-denominated products, including risk-management tools such as equities, bonds and derivatives, Asian countries can make RMB investment via Hong Kong. They can also take full advantage of Hong Kong's RMB fund pool. Apart from consolidating Hong Kong's status as an RMB offshore center, this can also further boost Hong Kong's status as an international financial centre.

Actually, since the crash of China A-shares in July, the Mainland authorities have made rounds of aggressive efforts to rescue the market, including requesting major shareholders of all listed companies to stop selling. Many overseas media have pointed out that the market-rescue measures of the Central Government can show clearly that the Mainland is not yet ready to embrace the free market. In contrast, Hong Kong remained calm in the stocks crash. This highlights Hong Kong's unrivalled advantage of financial market freedom and transparency, thus accentuating our status as a financial centre.

There is an opportunity before us, but do we have enough capacity to grasp the opportunity? We should pay attention to two aspects at least — a shortage in the supply of commercial buildings and inadequate talent training.

An international property consultant has looked at the rentals of grade A offices of 20 major cities worldwide and published a report a short while ago. As at the second quarter of this year, Hong Kong still topped the global list, with the average monthly rental per square foot standing at \$165, which was about 60% more than that in New York, another international financial centre. Besides, the vacancy rate in Hong Kong was below 2%. In other international financial cities like Manhattan and London, their vacancy rates were close to double-digit. As a result, we can see that there is a serious shortage in the supply of commercial buildings in Hong Kong, and this has kept the costs of doing business at very high levels.

With increasing economic exchanges between China and Hong Kong, especially after the launching of the Shanghai-Hong Kong Stock Connect or the future Shenzhen-Hong Kong Stock Connect, as well as the implementation of the strategic position of "One Belt One Road", it can be expected that more overseas enterprises will come to Hong Kong to establish footholds or regional headquarters. They will rent offices in Central and use Hong Kong as a springboard for their internationalization process. Therefore, the demand for offices in the core commercial district is bound to rise. The Government should expeditiously make corresponding planning for the supply of commercial land.

Second, as "One Belt One Road" requires different financial, accounting and legal professionals, we must consider whether the training provided by local universities at present can meet the needs? In order to meet the future need of

economic development, the Government should draw up talents planning as soon as possible, including increasing local university places and looking into the formulation of corresponding schemes to bring in quality migrants.

Although "One Belt One Road" has become the talk of the town, it appears that the Government is still exploring what this new strategy of the country is exactly about. Up till now, the Chief Executive has only proposed the establishment of specialized institutions to look into how "One Belt One Road" should be promoted, without coming up with any concrete policies or measures. I hope that after listening to Members' views, the Government can introduce some specific measures.

President, the promotion of "One Belt One Road" face many challenges. We are all aware that lately, China's diplomatic relations with the Association of Southeast Asian Nations are not too good, so it may be a bit difficult to promote the maritime silk road. I believe Mr Martin LIAO will understand this. As regards the overland silk road, although there is more room in Central Asia, the output value is relatively low.

MR ALBERT CHAN (in Cantonese): President, sorry, I could not hear you.

President, I am really very worried after hearing so many royalists praise "One Belt One Road". According to information, "One Belt One Road" covers many places and involves an astronomical sum of capital. The 60 countries concerned have a total population of 4.4 billion, accounting for 63% of the global population. Their total economic value is US\$21 trillion, representing 30% of the global aggregate economic value.

So, under the leadership of the Chinese Government, efforts will be made to promote economic development in so many countries and places. And, the scope is going to be very extensive too, covering not only infrastructure facilities, economic activities, agriculture, oil, finance, agricultural produce processing but also everything under the sun. Even desert management, solar power and environmental protection are included in the projects of co-operation.

However, let us look at the track record of the Chinese Government over the years. We can find countless infrastructure developments in the Mainland that were poor in monitoring and low in cost-efficiency. Many studies show that in China itself, many railroad and infrastructure developments and municipal

projects all ended up in a fiasco. Tens of millions of housing units are left vacant. If we look at the overseas investments made by the Chinese Government, we will also see that the results were just horrible.

President, there were so many examples of failure in the past 10-odd years, so numerous that we cannot even count them. For overseas investments made in 2013 by Chinese state-owned enterprises and private enterprises alone, 30% of the US\$108 billion investments ended up in failure. The causes were many, including corruption and investments based on personal preferences rather than economic analyses. Many such investments failed in the end.

Even the National Audit Office of the People's Republic of China also stated in 2013 that the China Investment Corporation, which had US\$600 billion in assets under its management, had incurred serious losses in 10 of its overseas investments because of mismanagement. President, even two hours will not be enough if we need to recount all these problems.

President, if we take a look at the origin and development of "One Belt One Road", we will surely find certain connection with XI Jinping's personal likings and aspirations. I will say that "One Belt One Road" is XI Jinping's "Great Leap Forward". Many of his words are very similar to the slogans chanted during the Great Leap Forward. An important strategy of the Great Leap Forward was to "surpass Britain and catch up with the United States". And, we can see that politically, "One Belt One Road" is meant to foster the economic development of China as a means of counteracting the trend of American economic dominance. It is hoped that this can really counteract the influence of the United States.

At the beginning of the Great Leap Forward years ago, it was proclaimed that China would "surpass Britain in 10 years and catch up with the United States in 20 years". The timeline was ultimately shortened: "surpass Britain in three years and the United States in five years". People's vaulting ambition during the Great Leap Forward really made "high mountains bow and the sea part". This is very much like "One Belt One Road", isn't it? "Man can make the earth yield, the sea surrender and the universe hand over its treasures". All these were slogans of the Great Leap Forward. They really sound like the rhetoric of the royalists just now, don't they?

Hence, we can see that the present situation is really frightening. It is because we are now talking about investments worth trillions of dollars. This is the hard-earned money of the 1.4 billion Chinese people. The examples I

quoted just now, as Members can see, cover the whole world, including the Middle East, South East Asia, South America. The Communist Party injected tens of billions of US dollars into many countries, either in the form of loans or investment, and it was all public money. But many of these countries have not yet paid back the money to China. Venezuela is an obvious example. It is also the case with Africa and the Middle East. There were many such examples of failure in recent years.

President, let us look at how the academics comment on "One Belt One Road". The Chief Investment Strategist of Goldman Sachs once dismissed it as "XI Jinping economics", commenting that it was far more exaggerating the Great Leap Forward under MAO Zedong. In fact, when I first call "One Belt One Road" XI Jinping's "Great Leap Forward", I was not aware of the comment made by the Chief Investment Strategist. Hence, my opinion is similar to the comment made by economic experts such as the Chief Investment Strategist of Goldman Sachs.

What did this expert say? He said that "XI Jinping economics" is even more exaggerating or imbalanced than MAO Zedong's Great Leap Forward, adding that the Chinese Government must first address issues like deflation and overcapacity before it can truly revive its economy. A "Great Leap Forward" way of economic development will only drag China's economy further down and make its people suffer more, just like what happened in the Great Leap Forward.

I hope XI Jinping will take a look at XI Zhongxun's comment on the Great Leap Forward. XI Zhongxun collected a lot of data on the productivity of various districts in China during the Great Leap Forward and the harms inflicted by this movement. He then made an in-depth evaluation of it. XI Zhongxun's general comment on the Great Leap Forward was severe. He said that it was extravagant, deceitful and communistic. However, XI Jinping's "Great Leap Forward", that is, "One Belt One Road", will relieve the circumstances of the Great Leap Forward that XI Zhongxun criticized. President, history now repeats itself.

MRS REGINA IP (in Cantonese): President, I would like to thank Mr Martin LIAO for initiating this motion and several other Members for putting forth the amendments. This motion gives us the opportunity to discuss the significance of "One Belt One Road" and explore the roles that Hong Kong can play in this new development.

I notice that Mr Martin LIAO's motion mainly focuses on the new directions for Hong Kong's overall economic development under "One Belt One Road", and the amendments raised by other Members are basically about the opportunities presented to our economy and our financial and logistic sectors. Hence, I would like to take this opportunity to talk about the geo-political, cultural and historical significance of "One Belt One Road" and the roles that Hong Kong can play.

President, the term "Silk Road" was not invented by the Chinese. It was coined by a German geographer called Ferdinand von RICHTHOFEN, who went on a number of expeditions to China between 1868 and 1872. He coined the term "Silk Road" in the book that he subsequently wrote on the subject. In fact, there was no such term as the "Silk Road" in the ancient times. President, you are an erudite man, you must know that the Silk Road was opened up by ZHANG Qian of the Western Han Dynasty. The Western Lands were first mentioned in *The Book of Han*, in which a chapter on the Western Lands made mention of ZHANG Qian's diplomatic mission to the Western Lands that eventually opened up the Silk Road. ZHANG Qian's mission to the Western Lands was not aimed at doing business, in contrast to Members' discussions on "One Belt One Road" today. He actually wanted to help the Han emperor Wudi to fight the Xiongnu. Wudi sent him to find a country named Da Yuezhi, a sworn enemy of the Xiongnu, in the hope of forming an alliance with in the fight. Unfortunately, when ZHANG Qian travelled to somewhere near Mongolia, he was captured by the Xiongnu. After years of imprisonment, he escaped and made his way back to China. Subsequently, he went on another expedition to the Western Lands. This time, he managed to reach Dayuen and Da Yuezhi (known as Uzbekistan and Kazakhstan nowadays). He went there with a diplomatic mission of forming an alliance with these countries. He travelled to the Western Lands with a delegation of some 100 people, and successfully opened up a corridor for future trading activities. It was said that ZHANG Qian brought back to China pepper, stringed music instruments, fine grape wine, and so on, from the Western Lands. President, the English word "serendipity" can best describe this phenomenon — we try in vain to get "A", but we get something related which is equally valuable.

The "Silk Road" is a relatively modern term, so are "Maritime Silk Road" and "Maritime Communication". According to historical records ... I have to thank Prof Billy SO from The Hong Kong University of Science and Technology

as I have listened to his seminar recently. According to Prof SO, ancient China already had books about external communication. Their titles are ... President, please allow me to take out the cardboards one by one. *The Book of Liang* (《梁書》) is a record of China's maritime communication with the outside world in the ancient times; *A Record of the Countries in the Southern Sea* (《海南諸國傳》), *A Record of the Foreign Nations* (《諸蕃志》) — as suggested by the title, the foreign nations were regarded as barbaric nations, *A Brief Record of the Islands* (《島夷誌略》), *An Overview of the Maritime Regions* (《瀛涯勝覽》), *A Study of the Eastern and Western Seas* (《東西洋考》) and *An Atlas of the Maritime Countries* (《海國圖志》) are ancient books written about the southeast Asian countries. President, I believe you well understand how the Chinese used to perceive the world. We call the world "Tian Xia", which means "beneath the sky"; and we used to call our country the Middle Kingdom. There is the concept of "we as opposed to they" in Chinese culture — we are the Huaxia nation, while others are all barbaric tribes — this was the prevailing concept at that time.

Terms such as "maritime trading" and "maritime communication" emerged only in the 19th century when the Chinese began to study maritime communication. Consequently, a number of books on this subject were published: *A History on China's Maritime Communication with the Foreign Countries* (《中外海上交通史》), *A History on China's Maritime Relationship with the Foreign Countries* (《中外海上關係史》) and *Maritime Trading in the Southern Sea* (《南海海上貿易》). The term "Maritime Silk Road" did not appear until after the 1990s. President, why do I talk so much about history? I am very grateful to Prof Billy SO from The Hong Kong University of Science and Technology. I have listened to his seminar recently. He talked about the history and origins related to "One Belt One Road" as well as his understanding of what this new initiative is about. According to him, our country is constructing a big new house on a foundation with several thousand years of history — the ancient Silk Road, which was the road to trade with the South and the foreign countries in the southern sea in the ancient times — the big new house is being constructed on a foundation with a very old history. As put by Prof SO, our country is in fact constructing a big new house. This big house has to be built, not because our country is eager to make any grandiose achievements, but because if our country does not build this house, other countries will.

Speaking of the new Silk Road, you could not have imagined that it was actually an idea initiated by the United States in 2011. Since the United States wanted to station troops in Afghanistan at that time, it must stabilize the region.

The United States raised the idea of opening up a new Silk Road with its main axis along Afghanistan, Iraq and Pakistan in the hope of forming a corridor of trade. Russia has also championed an alliance between Europe and Asia. Everyone now sees that Central Asia is of very great strategic importance and wants to develop a corridor that can facilitate trade, diplomatic ties, military operations and energy development. Therefore, as I said, our country is not eager to make any grandiose achievements. Rather, it simply has no alternative.

I have had some recent contacts with certain state enterprises, such as the China Merchants Group. Before the State President rolled out "One Belt One Road", these enterprises already wanted to promote China's economic transformation in a bid to provide better income to workers ... Mr Albert HO is not in the Chamber now. He said that workers in China were miserable. But the fact is that the wages of Chinese workers have risen very sharply, and this has led to the increase in production cost. Processing industries can no longer survive in the Pearl River Delta, and they have to go out, go out to the Silk Road. This is the reason for developing the Silk Road, or the "One Belt One Road". Hong Kong has an important role to play. In addition to the roles that Hong Kong can play in the logistics, financial and trading areas as mentioned by Members, Hong Kong is a city where Chinese and Western cultures meet. Thus, we are well-positioned to facilitate communication between the country and various civilizations. This is our edge. All the elites in Hong Kong are well-versed in Chinese and Western cultures. Thank you, President.

MR TONY TSE (in Cantonese): President, the national development strategy of "One Belt One Road" announced by President XI Jinping in 2013 has drawn worldwide attention and aroused the keen concern of the international community, as this initiative is going to involve over 60 countries and 4.4 billion of people, accounting for 60% of the global population. A report released by American consultant Mckinsey & Company even projects that "One Belt One Road" is set to bring 3 billion people all over the world upward to the middle class before 2050. As part of China and an international financial hub, is Hong Kong fully prepared for this? In particular, is the SAR Government totally determined to do its very best, adopting various policies and measures to assist and guide all sectors of Hong Kong in looking for and grasping opportunities in this significant endeavour, so that the economy of Hong Kong can reach a new milestone? I very much hope that the Government can adopt a new mindset and act as the leader of Hong Kong in converging with our country's development strategy.

All along, many people have criticized Hong Kong for failing to draw up any long-term planning for its strategic development and relying basically on the free market to adjust its economic development. The Government only makes minor adjustments in the annual policy address and Budget. As a result of such limited interference by the Government, many problems have started to surface in recent years, some examples being the worsening of population ageing in society, inadequate tourism resources, slow restructuring of enterprises and the dwindling advantages enjoyed by us in sea transport and port services. However, the Government has still failed to formulate any long-term solutions, thus causing all these problems to worsen. Hong Kong is no longer as competitive as before, and some countries and places that are more active in formulating long-term economic development strategies have already overtaken us. In my view, in order to address all these problems, the Government must abandon its old mindset and approach, which are marked by lack of foresight and vision.

According to news reports, Financial Secretary John TSANG once said in July this year that "One Belt One Road" could support the development of Hong Kong in the next 30 to 50 years, adding that as the largest wealth management centre in the Asia-Pacific region and the biggest Renminbi offshore market in the world, Hong Kong could draw funds from various sources. That said, he emphasized that in respect of "One Belt One Road", the Government would still abide by the market mechanism and let the market decide the allocation of resources. He explained that the Government would only play the role of a facilitator, and would not step in unless the market faced difficulties. Many people are of the view that this mindset is far too conservative and traditional. They are afraid that in the development of "One Belt One Road", Hong Kong will once again miss out as before. I hope the Government can make courageous attempts at innovation, look farther ahead, take more extra steps and proceed at a faster pace, so as to drive the economic growth of Hong Kong and upgrade its competitiveness. Hence, I totally agree to and support Mr Martin LIAO's original motion that urges the SAR Government to lead and support various industries to seize the opportunities in a timely manner, and seek new directions for the sustainable development of Hong Kong's overall economy.

President, early this month, I visited Myanmar with a delegation organized by the Hong Kong Trade Development Council. Other members of the delegation included Secretary for Development Mr Paul CHAN, members from the professional services sectors and representatives from business institutions. During the visit, we were briefed on the Thilawa Special Economic Zone

developed by a Myanmar-Japan joint venture in Thilawa, a place on the outskirts of Yangon. The special economic zone, which officially commenced operation on 24 September 2015, is set up with investment from three leading Japanese banks, and the Japanese Government also holds 10% of its shares. The shareholding structure of this project shows that the Japanese Government has played an active role, not just as a facilitator, but also as a participant, in assisting Japanese companies and professionals in developing new overseas markets. This is a good example for the SAR Government. In addition, when meeting with the mayor of Yangon, I expressed the wish that the SAR Government and the Burmese Government could enhance communication by holding regular meetings to discuss various issues, particularly the promotion of bilateral trade between of the two places. I believe these exchanges will be of great help to various industries and small and medium enterprises in their market development.

President, in September, in a forum on the positioning and functions of Hong Kong with respect to our country's development strategy, Chief Executive Mr LEUNG Chun-ying pointed out Hong Kong's "four merits and six functions" under "One Belt One Road". The four merits are openness, capability to deal with the outside world, language competence, people's external connections. All these merits can enable Hong Kong to play its roles in six areas, including shipping and international financing. On the issue of developing new markets, I hope the SAR Government can play a more active role. It should abandon its role as a market facilitator upholding positive non-intervention, and then gradually increase its extent of participation. The reason is that an appropriate degree of participation by the Government will be of great help to industries, particularly small and medium enterprises, in their market development. This will have a positive effect on the overall economic development of Hong Kong.

President, I so submit.

MR WONG YUK-MAN (in Cantonese): President, the blueprint of "One Belt One Road" announced by the Chinese authorities early this year sent many Chinese people into exuberance. They started to dream that China would soon overtake the United States and become the leader of the world. However, the A-share market crashed a few months later, and aggressive rescue efforts only made the market plummet further and further, prompting many capitalists to begin the gradual withdrawal of their investments. Some economists have even pointed out China has already entered its "post-miracle era".

This summer, the China stock market crashed and the Renminbi depreciated drastically all of a sudden. From June 2014 to August 2015, the foreign exchange reserves of China stopped growing for the first time in 10 years, even recording a reduction of more than 10%. Seeing the crash of the China stock market, many people who previously asserted that the economic miracle of China could last 10 more years or no less than 10 more years all hastened to transform themselves into experts in China's economic crisis. I would say that all is just because the real economy of China is no longer capable of any further growth. Only the ignorant will believe that "the economic miracle of China will last forever" and "China will rule the world".

A few weeks ago, the Trans-Pacific Partnership (TPP) reached an agreement. It consists of 12 member states including the United States, Japan, Canada, Australia and Singapore, but China is not a member. OBAMA, President of the United States, has even emphasized that when 95% of the United States' potential customers live abroad, the rules for the global economy should not be written by a country like China.

Why do Hong Kong businessmen think that only China can write "the rules for the global economy"? When did they lose their global vision? Many of them are the so-called patriotic businessmen in Hong Kong. Is Hong Kong really so poor that it is left with nothing but only China? At present, what we should consider is how Hong Kong can tread a new path amidst the economic crisis of China. And, what we should consider even more deeply is how Hong Kong can work out its own salvation in case the economy of China collapses. But the advocacy of "seizing the opportunities brought about by 'One Belt One Road' and seeking new directions for Hong Kong's economy" simply repeats the past economic strategy of "Hong Kong-China integration". The aim is again to enable Hong Kong to benefit from the national economic strategy of China.

Over the past few years, Hong Kong people have seen very clearly how Hong Kong is reduced from a metropolis to a mere Chinese city as a result of its integration with China. In 2003, during the onslaught of SARS in Hong Kong, the then Chief Executive TUNG Chee-hwa said, "Hong Kong is undergoing a painful and unforgettable process of economic restructuring." He said that the only way out was to integrate with China economically and adopt "leveraging on the Mainland and engaging ourselves globally" as a new positioning for Hong Kong in its future development. The optimism about CEPA at that time is no different from the optimism about "One Belt One Road" today. The industrial

and commercial sectors of Hong Kong are equally exuberant. They think that the economic development of China will bring endless opportunities to Hong Kong and will forge a new way out for the Hong Kong economy.

I cannot help asking the following questions. Twelve years on, has the economy of Hong Kong turned knowledge-based? Twelve years on, has the international status of Hong Kong seen any enhancement? Twelve years on, has the life of the common masses in Hong Kong seen any improvement at all? The answers are all in the negative.

The benefits brought by CEPA are far outweighed by its damages. With the introduction of the Individual Visit Scheme, we see how bad money drives out good in the tourism industry. We also see the increasing homogeneity of the retail industry and the soaring of shop rentals. Twelve years on, the original living environment in Hong Kong has deteriorated. It is indeed beyond imagination that this metropolis called Hong Kong has degenerated into a large shopping mall solely for people from China. During holidays, Hong Kong people do not want to go out because all the streets are crowded with Chinese visitors. More seriously, the nasty behaviour of some Chinese visitors has discouraged many overseas visitors from coming to Hong Kong. As a result of CEPA, some individuals (such as property developers, shop owners and consortia) have become wealthy. But apart from that, CEPA has brought basically nothing but harm to the general public of Hong Kong.

Adopting Hong Kong-China integration as a means of developing the Hong Kong economy is no different from drinking poison to quench our thirst. China is not an economically developed region. Its economic and social systems are lagging far behind those of Hong Kong. Over the past few years, we have seen that although Hong Kong enterprises can gain some short-term benefits from the development of China, they will nonetheless debase themselves in technical standards and professional ethics. Some of them even collude with Mainland enterprises and engage in forgery and deception. After doing business in the Mainland, Hong Kong businessmen and professionals will bring back to Hong Kong all sorts of ills such as government-business collusion, bribery and corruption, and the culture of insulting subordinates. This will damage the precious systems and good business atmosphere in Hong Kong, in turn deterring international investors from Hong Kong.

Both CEPA and "One Belt One Road" will inevitably bring red capitals to Hong Kong. When red capitalists from China operate their businesses in Hong Kong, they will resort to the practices they use in China and collude with government officials in order to gain privileges. They all regard our democratic consultation process and system of checks and balances under the rule of law as obstacles to economic development. If these red capitalists ask the Hong Kong Government to bend the rules, the powerless Hong Kong Government cannot possibly cope with these red capitalists who are supported by the Communist Party, and must yield in the end. In recent years, the Independent Commission Against Corruption has repeatedly been queried for violating the established principles and allowing some privileged people to walk free for political reasons. All along, Hong Kong people have been proud of the corruption-free environment, and this has drawn international investors to come to Hong Kong for development. However, the integration of Hong Kong and China has damaged the systems and atmosphere cherished so highly in Hong Kong.

As a result of its economic dependency on China, Hong Kong has lost its autonomy. It is now devoid of any local industries and drifting farther and farther away from the international community. When CEPA was concluded back then, the Government kept painting a rosy picture of the future, saying that the Hong Kong economy would thus undergo successful restructuring. Nevertheless, 12 years on, Hong Kong is still dependent on the financial, real estate, services and logistics industries. Over the past 10-odd years, the economy has never seen any improvement. This is because the Government and businessmen are all short-sighted and averse to progress. The Chinese Communists have been tightening their control politically, economically, socially, culturally and even educationally. Battered by the onslaught of Chinese colonial settlers, the common people of Hong Kong are now leading an increasingly miserable life. As long as Hong Kong is economically dependent on China, Hong Kong will not have any power of resistance. In the future, China can even abolish the boundary of Hong Kong and carry out cross-boundary migration without having to give any reasons.

"One Belt One Road" is only a dose of sugar-coated poison. Its apologists must either be ignorant or utterly evil-minded. Anyone who is aware of LI Ka-shing's investments withdrawal will know how the Chinese economy is doing. Recently, even Ronnie CHAN, the boss of Hang Lung Group, has written a long article casting doubts on the prospects of the Chinese economy (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

MR YIU SI-WING (in Cantonese): President, as a major strategic plan of our country, "One Belt One Road" will impact the direction and pattern of the global economic development in future decades, so it is an opportunity that Hong Kong cannot afford to miss. As tourism is one of the four pillar industries in Hong Kong, it is worth exploring how we should make use of the opportunities presented by "One Belt One Road" to further develop our tourism industry.

In March this year, an Action Plan on "One Belt One Road" was jointly released by the National Development and Reform Commission, the Ministry of Foreign Affairs and the Ministry of Commerce. With regard to the strategic positions of various places in China, it is clearly stated in this document that "we should give full scope to the role of Qianhai (Shenzhen), Nansha (Guangzhou), Hengqin (Zhuhai) and Pingtan (Fujian) in opening-up and co-operation, deepen their co-operation with Hong Kong, Macao and Taiwan, and help to build the Guangdong-Hong Kong-Macao Big Bay Area." It can thus be seen that under the planning of "One Belt One Road", Guangdong, Hong Kong and Macao with their respective geographical and market characteristics are actually regarded as one single co-operative entity that is expected to thrive in complementarity and achieve the effect of "one plus one is more than two". It is also pointed out in the document that efforts must be made to "make it more convenient to apply for tourist visa in countries along the Belt and Road". This means that drawing tourists to places along "One Belt One Road" is one of the important measures to revitalize the economy.

As we all know, since the Mainland introduced the Individual Visit Scheme in 2003, we have recorded significant increases in the number Mainland visitors year after year. We received over 60 million visitors last year, and Mainland visitors accounted for 78%. If Macao visitors are not counted, overseas visitors accounted for 20.7% only. Over the years, the emphasis of our tourism hardware has been the provision of conventional products like the Hong Kong Disneyland, the Ocean Park, and so on. These are attractive tourist spots for Mainland visitors, but with the completion of the Ocean Kingdom in Zhuhai and the Shanghai Disneyland and also the emergence of many more major tourist attractions in the Mainland, the appeal of Hong Kong as a world city will only diminish.

Currently, Hong Kong's tourism industry is faced with many problems. While there is the "homogeneity" of tourism products and visitor source, Hong Kong's hospitable image and its reputation as a shopping paradise are also being tarnished. The idea of the Guangdong-Hong Kong-Macao Big Bay Area serves to remind us that we must renew our market concepts. We must tap the advantages of surrounding places and seek to attract more overseas visitors, especially long-haul visitors, so as to increase their proportion.

Actually, cities in the Guangdong-Hong Kong-Macao Big Bay Area are all unique on their own. Holidays resorts featuring Chinese and foreign folk cultures are found in Shenzhen. Guangzhou features the Lingnan Culture and marine leisure tourism. Zhuhai is set to develop sports and wellness tourism, and Macao is famous for its Portuguese architecture and gaming industry. The tourism products of these places can be combined with those in Hong Kong to achieve complementarity. As stated by the Director of Macao Government Tourist Office, Ms Maria Helena DE SENNA FERNANDES, in May this year, capitalizing on the development opportunities presented by "One Belt One Road", Macao will strive to open up the Southeast Asian market. Macao will join hands with neighbouring places such as Guangdong and Hong Kong to promote multi-destination tourism to Southeast Asian countries. The thinking adopted by Macao for the development of tourism is basically consistent with the concept of the Guangdong-Hong Kong-Macao Big Bay Area.

Both Macao and Hong Kong are now facing the problems of visitor source and tourism products. I am of the view that the Hong Kong Government should capitalize on the opportunity presented by "One Belt One Road" and join hands with Macao and Guangdong Province to recap the problems with promoting multi-destination tourism in the past, introduce new elements, and repackage the multi-destination programme with Southeast Asia as the first target, to be followed by European and American markets step by step. The following are my specific suggestions.

- (1) There should be good planning for capitalizing on the opportunity presented by "One Belt One Road". The SAR Government should take the initiative to contact the Macao Government and the Guangdong Provincial Government for the purpose of jointly exploring a development direction for multi-destination tourism based on the unique tourism features of the three places. Steps must be taken to allocate additional resources, enhance publicity and

promotion, streamline visa procedures and facilitate immigration clearance to give overseas visitors a good and deep impression, with a view to gradually resolving the present problems of market "homogeneity" and shortage of tourism products.

- (2) Additional funding should be allocated. The additional funding of \$90 million allocated by the SAR Government to the Hong Kong Tourism Board (HKTB) this year for market development and revitalization of the economy has achieved certain effect. I hope the Government can seriously recap the experience this year and allocate more additional funding in the Budget next year.
- (3) Support should be given to the tourism industry. A good part of the additional funding for publicity granted to the HKTB this year has been used for image promotion and lucky draw programmes. The participation of hotels, airlines and travel agencies has not been very enthusiastic, so the funding cannot help the industry manifest its advantages. The matching fund of \$10 million introduced subsequently requires tourist attractions to work with other relevant sectors in the tourism industry. I think this is a big improvement. I hope that in case the Government allocates more additional resource to support multi-destination tourism programmes in the future, the HKTB can consider the continued adoption of a matching fund, so as to encourage participation from the relevant sectors. More importantly, appropriate subsidy must be given to programmes involving key markets.

President, "One Belt One Road" is a state policy and the suggestions mentioned above involve various Policy Bureaux and the two places of Guangdong and Macao. I hope the Government will actively study the proposals at a higher level and implement the measures put forward, so that Hong Kong will not lose out under this mega trend.

President, I so submit.

MR FRANKIE YICK (in Cantonese): President, the purpose of "One Belt One Road" advocated by our country is to strengthen the co-operation between the Mainland and other countries, and to promote economic and trade ties regionally and even globally. "One Belt One Road" involves some 60 countries and covers

more than 60% of the global population. The aggregate economic value amounts to HK\$162.8 trillion, representing around 30% of the Gross World Product. In the face of this huge market with such development potentials, neighbouring cities all want to grasp this golden chance to expand their economic development and "make a bigger pie". The construction of facilities related to "One Belt One Road" is already actively underway in Qianhai, Shenzhen, for example.

It is the mainstream opinion in Hong Kong that as an international financial centre, Hong Kong can actually play a major financing role in "One Belt One Road" projects. However, this is not the only chance. The reason is that in the blueprint called Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road, it is suggested that a number of infrastructure facilities and co-operation platforms be built in the region. These will help boost the demand for shipping and logistics services in the region, expanding the catchment area for goods and cargo throughputs. Hong Kong is in possession of a well-developed network of sea, land and air transport, and it is also noted as a highly efficient multi-modal transport hub and an important entrepôt. The Government of the Special Administrative Region (SAR) should capitalize on Hong Kong's unique advantages, continue to add value to the industries, enhance the position of Hong Kong as a goods collecting and distributing centre in the region, and strengthen Hong Kong's shipping and logistics industries by participating in the construction of "One Belt One Road" facilities.

In recent years, the ranking of Hong Kong has dropped in a number of competitiveness surveys. At the same time, it is also facing the threat of being marginalized. If Hong Kong fails to grasp the opportunities brought by "One Belt One Road", the future development of the shipping and logistics industries will certainly face worrying prospects. Therefore, during the visit to Beijing last autumn, the representatives of the shipping and transport industries already actively reflected their wish to participate in the construction of "One Belt One Road" facilities to Mainland officials.

Following this, although the Financial Secretary mentioned "One Belt One Road" as a special topic in the Budget, the content was relatively general. He only said that Hong Kong would strengthen trade ties with the markets concerned through co-operation, exchange visits and trading agreements. Even though he mentioned that Hong Kong, as an important financial, commercial and shipping

centre in the world, could provide Mainland enterprises with a wide range of professional services in their bid to "go global", the focus was still on financing and asset management. There was a complete absence of any concrete measures on assisting the shipping and logistics industries in grasping the opportunities brought by "One Belt One Road".

Nevertheless, in the Budget, the Financial Secretary said that the Government was examining the provision of one-stop customs clearance service under the "Single Window System". This has the support of the shipping and logistics industries. The industries believe that if the departments concerned can streamline the handling of import/export documents and customs clearance procedures, costs reduction and enhancement of competitiveness will result. However, the industries think that the "Single Window System" should not be implemented just locally. In order to strengthen our connection with overseas markets and grasp the opportunities brought by "One Belt One Road", the authorities should consider implementing the "Single Window System" regionally, extending it to the ports and stakeholders of various countries along the Maritime Silk Road, so that Hong Kong can merge with the Intercontinental Internet of Things formed by "One Belt One Road" for sea, land and air cargo forwarding.

High-speed and accurate transmission of information is essential to making the Maritime Silk Road thrive. The shipping and logistics industries hope that the SAR Government can take the proactive step of building an information platform which connects to the customers and service-providers in the Mainland and the countries belonging to the Association of Southeast Asian Nations (ASEAN). Since Hong Kong can benefit from its close relationship with the Mainland under "one country, two systems" and it can at the same time converge with other economies in the world, it is well-equipped to develop such a platform and act as the "Super Connector". Extending the "Single Window System" to the region and even the ports and stakeholders of various countries along the Maritime Silk Road will involve information exchange among various governments at the state level. If we are to succeed in building such a platform, we really need the leadership of the SAR Government in the course of our participation.

In fact, the "Single Window System" is now a generally accepted form of boundary control in countries all over the world. At its Ministerial Conference two years ago, the World Trade Organization (WTO) already stated its clear requirement that all its members should strive to build and maintain the "Single

Window System". The Mainland is now putting full efforts to removing the customs hurdles among provinces, in the hope that based on the concept of connectivity under the "Single Window System", customs clearance procedures can be quickened and streamlined. Yangshan Free Trade Port Area in Shanghai already implemented the "Single Window System" for international trade on a pilot basis last year. Besides, it is anticipated that in 2018, there can be one-stop customs clearance procedures for four pilot cities. There will be "one-step declaration, one-step inspection and one-step release". The efficiency of customs clearance will be enhanced. If Hong Kong's information platform can connect to the "Single Window System" built up in the Mainland in future, it will be possible to speed up import/export handling procedures and reduce transportation costs. Since Hong Kong is already an important entrepôt in the region, it is possible for it to become a regional e-commerce centre. In the long run, Hong Kong's ultimate goal should be the development of a Single Window platform for international trade for the purpose of merging with the Intercontinental Internet of Things formed by "One Belt One Road" for sea, land and air cargo forwarding. I believe that this will help enhance Hong Kong's critical mass, thus further promoting Hong Kong's shipping and logistics industries.

President, I so submit.

MR TAM YIU-CHUNG (in Cantonese): President, having listened to Mr WONG Yuk-man's speech earlier on, I would say — to put it mildly — he is self-opinionated. But to put it bluntly, I would say "anti-communism has simply driven him out of his mind". He dismisses "One Belt One Road" as sugar-coated poison, saying that the Chinese economy will collapse and Hong Kong must find another way out.

Fortunately enough, the British Prime Minister is not aware of his remarks and well, he probably will not listen to him either. This is why the British Prime Minister has signed many agreements with China on strengthening the co-operation of the two countries and promoting their economic development. He also describes CEPA, the Individual Visit Scheme and China-Hong Kong integration as completely devoid of any merits. Certainly, I believe no one in Hong Kong or even the world will buy his radical views, but I must still point out the absurdity of his words.

Last Saturday, the DAB invited 10-odd leaders from various chambers of commerce (including academics and professionals) to a roundtable conference for discussing economic development, improvement of people's livelihood and also the opportunities and challenges presented by "One Belt One Road". During the conference, the speakers said in unison that they attached a great deal of importance to the economic development opportunities brought by "One Belt One Road" to Hong Kong, and they put forth many views and ideas. Some attendees were of the view that Hong Kong was well-equipped to take up many tasks in financing. Other asserted that Hong Kong must strive to play a more important role in the Asian Infrastructure Investment Bank. Some other attendees even specifically pointed out that Hong Kong had rich experience in the management and construction of container terminals and tunnel boring, so there is much room for Hong Kong to play a role in "One Belt One Road"

Just now, many Members pointed out the importance of "One Belt One Road" to the future economic development of Hong Kong. Some Members were very specific in their speeches, and they put forth a great deal of data and statistics. I do not want to repeat their viewpoints, but I want to discuss how Hong Kong can grasp the opportunities presented by "One Belt One Road".

Hong Kong is a metropolis, but apart from the Mainland, the main focus of its external trade and financial services is developed countries and places such as Europe and the United States. And, Hong Kong people's understanding of the world is likewise mainly confined to advanced countries and places, such as Europe and the United States. It seems that Hong Kong people lacks any in-depth knowledge and understanding of other places, especially developing countries and regions.

However, since many developed countries and places such as Europe and the United States are now faced with various problems in their economic development, we must capitalize on "One Belt One Road", so as to develop new export markets for Hong Kong's external trade, financial services and professional services. We need to gain a deeper understanding about the cultures of those places and countries along "One Belt One Road". Many countries along "One Belt One Road" are Islamic countries. We need to know and learn more about the Islamic culture. I think the Islamic ethnic minorities in Hong Kong can play a part in this regard and act as a bridge to foster mutual communication and understanding between Hong Kong and the Islamic world.

At the same time, Hong Kong professionals and youngsters should be adventurous and brave enough to start up business in places along "One Belt One Road". Undoubtedly, many countries and places along "One Belt One Road" are still developing, so when it comes to living standards, they naturally lag far behind developed countries and places like Hong Kong, Europe and the United States. But precisely because these countries and regions are relatively backward, they offer larger and wider room for development and also chances for our people to achieve business success.

Finally, I wish to reiterate one point. These days, a handful of people in Hong Kong have been championing the seclusion of Hong Kong and the severance of its ties with the Mainland. Owing to this seclusion mentality, Hong Kong may miss the opportunity to benefit from the rapid economic development in the Mainland and also those countries and regions along "One Belt One Road" in the future. This will only do harm to Hong Kong.

We support the original motion and the various amendments. I so submit.

MR ALAN LEONG (in Cantonese): Very often, one should avoid going to the extreme in one's words. It is always wise to hold back the extreme words one is about to utter.

President, I must first state clearly that the Civic Party supports all the amendments and the original motion. We have never advocated the seclusion of Hong Kong. But for the record, I must state expressly here that if Hong Kong blindly dovetails with the country's planning, we will be "planned", and the Legislative Council knows very well what this means.

Perhaps, Mr TAM Yiu-chung does not like the opinions of Mr WONG Yuk-man. But I wonder if he will like the words of Mr Ronnie CHAN, Chairman of the Board of Directors of Hang Lung Group Limited. Recently, Mr Ronnie CHAN wrote a "Chairman's Letter to Shareholders" of almost 8 000 words. On "the introduction of the new Silk Road concept called 'One Belt, One Road'" and another measure, the letter says, "Is doubtful if either will bring sufficient short-term benefits to jump-start the economy." If the rose garden we have envisaged does not materialize but Hong Kong has already blindly participated and ended up "being planned", we will know how unwise it is to do so. The Civic Party must take the opportunity today to put down a footnote that we should stay alert when embracing this opportunity.

President, you may know that the Civic Party opposed the construction of the Liantang/Heung Yuen Wai Boundary Control Point. We already stated expressly the reasons for our opposition, and they are clearly recorded in the records of the Public Works Subcommittee and the Finance Committee. One reason for our opposition was that in our view, the construction of the Liantang/Heung Yuen Wai Boundary Control Point could aptly reflect how Hong Kong was "planned". Before the Shenzhen Municipal Government mapped out the "East in-East out" and "West in-West out" blueprint, the SAR Government's planning documents already pointed out clearly that the relevant site would not be developed. But after the Shenzhen Municipal Government completed its "East in-East out" and "West in-West out" planning, we spent tens of billions of public money on dovetailing with Shenzhen's planning. President, as our political party analysed, the SAR Government did not consider this issue from the position of Hong Kong and failed to convince the Civic Party with any value-for-money audit that the resource commitment would create wealth and bring short-, medium- and long-term benefits to Hong Kong.

But as can be shown by the setting up of an Innovation and Technology Bureau, the LEUNG Chun-ying administration will always ask the Legislative Council to approve its appropriation requests first before everything, before considering any performance targets, and before there is even any blueprint. He simply asks the Legislative Council to give funding approval first, saying that six months later, Nicholas YANG will provide a blueprint. I wonder if some Hong Kong people have already started to accept this kind of reasoning after hearing it over and over again. But I must warn everyone here that this mentality is actually very dangerous. Today, when we discuss how the "One Belt One Road" can create opportunities for Hong Kong, and how delightfully we should embrace the opportunities presented "One Belt One Road", we should bear in mind Mr Ronnie CHAN's advice apart from Mr WONG Yuk-man's words.

President, you may remember that several years ago, Secretary John TSANG proposed to issue sukuk. But when he put forth this proposal, there was not yet any "One Belt One Road". This shows that we must consider the question of what can give us the greatest benefits from the position of Hong Kong. If we do so and realize that we can benefit from certain planning initiatives of the country, we can at least fight for more benefits from the planning authorities of the country. We should not — I am merely sounding the alarm, as "One Belt One Road" is still very much a skeleton plan without any specific details — we should not get so enraptured as to give any reckless support. The

reason is that we must give consider things from the position of Hong Kong and conduct a "value-for-money audit" before we can ascertain what can bring maximum benefits to Hong Kong.

As I said just now, the Civic Party will support the original motion and all the amendments today. But at the same time, I also want to put it on record that while we embrace the possible opportunities, we must take account of Hong Kong's interests and position, and strive for the greatest benefits for Hong Kong instead of "being planned".

I so submit.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at 7.59 pm.

Annex I

Peak Tramway (Amendment) Bill 2015

Committee Stage

Amendments moved by the Secretary for Transport and Housing

<u>Clause</u>	<u>Amendment Proposed</u>
6	In the proposed section 2C, by adding— “(3) The Chief Executive in Council must determine an application for the operating right without unreasonable delay.”.
13	In the proposed section 8A(a), in the Chinese text, by deleting “維持” and substituting “維修保養”.
15	In the proposed section 11B, by adding— “(1A) The power under subsection (1) must not be exercised unless the Chief Executive in Council is satisfied that there is a substantial risk that the operation of the tramway will be disrupted if the power is not exercised.”.
15	In the proposed section 11C, by adding— “(1A) The power under subsection (1) must not be exercised unless the Chief Executive in Council is satisfied that there is a substantial risk that the operation of the tramway will be disrupted if the power is not exercised.”.

Peak Tramway (Amendment) Bill 2015

Committee StageAmendment moved by the Honourable Tony TSE Wai-chuen, BBSClauseAmendment Proposed

15

[NEGATIVED]

By deleting the proposed section 11B(9) and substituting—

- “(9) The lessee must pay to the lessor—
- (a) rent for the essential premises of an amount equal to the open market rent—
 - (i) that the lessor may reasonably expect to receive under a lease of the premises; and
 - (ii) that is to be determined in accordance with the terms of the lease;
 - (b) an amount equal to any loss or damage suffered by the lessor as a result of the lessee failing to maintain the essential premises in a condition that is suitable for operating the tramway in accordance with this Ordinance or the terms of the operating right granted to the lessee under section 2B(1) or (5); and
 - (c) an amount equal to any other loss or damage suffered by the lessor as a result of any power exercised by the Chief Executive in Council under this section.”.

Appendix I**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Prof Joseph LEE's supplementary question to Question 4**

As regards whether the Government would adopt age-specific⁽¹⁾ promotional strategy on organ donation and the related expenditure, the Department of Health (DH) conducts promotional activities on television, radio, the Internet and other media to reach out to population of different age groups.

The DH has developed two sets of Television and Radio Announcements in the Public Interest to reach out to the general public. The DH also conducted interview and prepare articles for the electronic and printed media. With a view to appealing to the younger generation, the DH has set up an Organ Donation thematic website <www.organdonation.gov.hk> and an Organ Donation Facebook Fan Page <www.facebook.com/organdonationhk>. The DH has also recently prepared a series of age-specific frequently asked questions on its thematic website.

Other than inviting public bodies, private companies and non-governmental organizations to be our supporting organizations, the DH organizes public education activities, including exhibitions and seminars, in schools, tertiary institutions, hospitals, government buildings/offices to enhance different population subgroups' understanding and acceptability of organ donation.

The Government has also established the Committee on Promotion of Organ Donation (the Committee) in April 2016, with a view to further promoting organ donation. The Committee is responsible for formulating strategies and directions for organ donation promotion, co-ordinating activities for promoting and facilitating organ donation, as well as formulating programmes and activities to encourage and educate the public on organ donation. Non-governmental organizations, institutions, members of the community and the media will be invited to participate in the promotional activities and programmes.

(1) The Centralised Organ Donation Register does not keep record of the age of the registrants.

WRITTEN ANSWER — *Continued*

Moreover, the Government launched the Organ Donation Promotion Charter (the Charter) in June 2016, inviting organizations, companies and schools to sign the Charter, pledge to promote the message of organ donation and encourage the public to register their wish at the Centralised Organ Donation Register. As at 30 June, there are over 150 signatory organizations/companies/schools of the Charter. We will seek to collaborate with the supporting organizations/companies/schools to identify new promotional channels to appeal for greater public support for organ donation.

Appendix II**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Mr CHAN Chi-chuen's supplementary question to Question 4**

As regards organ donation, the Hospital Authority (HA) has put in place a guideline for evaluation and selection of potential organs for transplantation. To ensure the safety and health of the organ recipient(s), persons who have engaged in unsafe sex (for example, having multiple sex partners, commercial sex or sex with another male or having severe or record of recurrence of sexually transmitted diseases in the last six months), will be considered unsuitable for donating his/her organs. The HA's Central Committee on Transplant Services is now studying the latest development and overseas reference with a view to reviewing the said guideline. The HA will revise the guideline as and when appropriate.

Appendix III**WRITTEN ANSWER****Written answer by the Secretary for Food and Health to Dr KWOK Ka-ki's supplementary question to Question 4**

As regards the upcoming publicity plan and resource allocated for promotion of organ donation, the Government has established the Committee on Promotion of Organ Donation (the Committee) in April 2016, with a view to further promoting organ donation. The Committee is responsible for formulating strategies and directions for organ donation promotion, co-ordinating activities for promoting and facilitating organ donation, as well as formulating programmes and activities to encourage and educate the public on organ donation. Non-governmental organizations, institutions, members of the community and the media are invited to participate in the promotional activities and programmes.

Moreover, the Government launched the Organ Donation Promotion Charter (the Charter) in June 2016, inviting organizations, companies and schools to sign the Charter, pledge to promote the message of organ donation and encourage the public to register their wish at the Centralised Organ Donation Register. As at 30 June, there are over 150 signatory organizations/companies/schools of the Charter. We will seek to collaborate with the supporting organizations/companies/schools to identify new promotional channels to appeal for greater public support for organ donation.

The resource allocated for organ donation promotion currently forms part of the Department of Health's overall budget for health promotion thus a separate breakdown is not available.

Appendix IV

WRITTEN ANSWER

Written answer by the Environment Bureau to Mr James TO's supplementary question to Question 6

As regards if the identification of misconnection cases could be covered under the Mandatory Building Inspection Scheme (MBIS), our reply is set out below:

Requirements of the MBIS

The MBIS was introduced by the Buildings Department (BD) under the Buildings Ordinance (Cap. 123) and has been fully implemented since June 2012. Under the scheme, each year the BD will select a certain number of buildings aged 30 years or above (except domestic buildings not exceeding three storeys) for carrying out prescribed inspections and establish a selection panel to advise the BD on the selection of target buildings. For those target buildings chosen under the scheme, the BD will issue pre-notification letters to the owners/owners' corporation (OC), and not less than six months later, the BD may serve them statutory notices. Upon receipt of a statutory notice, the owners/OC are required to appoint a Registered Inspector (RI) to complete the prescribed inspection as well as repair works (if required) within a specified time frame.

Scope of Building Inspection

Under the scheme, the inspection shall cover building elements such as external elements and other physical elements, structural elements, fire safety elements, drainage system, and identification of unauthorized building works in the common parts and on the exterior of the building. Regarding the drainage system, the scope of inspection shall include the following:

- Drainage system located at the external walls of the building;
- Drainage system in the common parts;
- Drainage system laid within the common pipe ducts;
- Underground and above-ground common drainage system; and
- Any other common drainage system for the building under inspection that may, if defective, choked or misconnected, affect the sanitary or hygienic condition of the building.

WRITTEN ANSWER — *Continued*

Based on the inspection findings, the RI shall provide proposals for the rectification and repair works in the Inspection Report.

Unauthorized Alternations and Additions

The RI shall report to the BD if the following unauthorized alternations and additions to the drainage system are discovered and considered to have an adverse effect to the drainage system:

- Misconnection of foul or waste water to the surface water drainage system or discharge of foul or waste water to external parts of the building or open areas;
- Drainage alternation and addition resulting in discharge of untreated trade effluent, including hot water, into the drainage system or to external parts of the building or open areas; and
- Misconnection of surface water to foul water system.

Given the above, the current MBIS has already covered aspects relating to the inspection and rectification of foul water system misconnection. The BD will closely liaise with the RI/OC/owners for prompt rectification of any foul water system misconnection found, and will follow up all cases in accordance with the Buildings Ordinance and existing enforcement policies.