

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 11 November 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

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

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

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

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

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

THE HONOURABLE LAU KONG-WAH, J.P.
SECRETARY FOR HOME AFFAIRS

MR RONALD CHAN NGOK-PANG, J.P.
UNDER SECRETARY FOR CONSTITUTIONAL AND MAINLAND
AFFAIRS

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)

TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Frontier Closed Area (Amendment) Order 2015.....	217/2015
Frontier Closed Area (Permission to Enter) (Amendment) Notice 2015.....	218/2015

Other Papers

- No. 23 — Customs and Excise Service Children's Education Trust Fund Report by the Trustee for the year 1 April 2014 to 31 March 2015
- No. 24 — Secretary for Home Affairs Incorporated
Financial statements for the year ended 31 March 2015
- No. 25 — Sir Edward Youde Memorial Fund
Report of the Board of Trustees for the Period 1 April 2014 to 31 March 2015

Report No. 3/15-16 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Provision of Public Markets

1. **MR LEUNG CHE-CHEUNG** (in Cantonese): *President, when divesting certain retail and carpark facilities of its public housing estates to The Link Real Estate Investment Trust in 2005, the Hong Kong Housing Authority (HKHA) advised that the Government would not interfere with the operation of the Trust's manager, The Link Management Limited (now renamed as "Link Asset Management Limited" (the Link)), on the ground that it was a private enterprise, but undertook to adopt measures to regulate the continued provision of services to residents by the company. However, some residents of Tin Yiu Estate in Tin Shui Wai have complained to me that the Link recently proposed a plan to convert Tin Yiu Market into a shopping mall (the conversion plan), neglecting their needs to purchase fresh food products. In response to media enquiries, the Link has indicated that while it plans to relocate the wet goods stalls in Tin Yiu Market, the dry goods part will be retained. The Link has further advised that it has been adhering to the relevant land leases in proceeding with the matter. The residents have also queried that they are unable to find out whether the number of public market stalls available in the district upon the implementation of the conversion plan will be in compliance with the relevant guidelines under the Hong Kong Planning Standards and Guidelines (HKPSG). In this connection, will the Government inform this Council:*

- (1) *whether it knows the details of the conversion plan; if it does, of the details; whether the authorities have received applications for changes in land use and land lease conditions, as well as other applications that require vetting and approval by government departments, which were submitted by the Link in respect of the conversion plan; if they have, of the details;*
- (2) *whether it has assessed if the conversion plan will result in a reduction of the public market services provided for local residents, i.e. the Link will not continue to provide the residents with the original services; if it has assessed and the outcome is in the affirmative, of the means through which the authorities can prevent the Link from taking forward the plan; and*

- (3) *given that while the Government amended in 2009 the number of wet market stalls set out in HKPSG to stipulate that in the planning of new public markets, in addition to the original practice of using population size as the planning guideline for public markets, other relevant factors (including community needs) must also be taken into account, but members of the public have been unable to find out whether the supply of public markets is adequate, whether the Government will conduct afresh comprehensive planning for the supply of public markets (including those built and managed by the Food and Environmental Hygiene Department, HKHA, the Hong Kong Housing Society, the Link, and the private sector) in the light of the population size and enhance the transparency of the planning work; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, according to the Link Asset Management Limited (the Link), the conversion works now being pursued would entail consolidation of stalls in Tin Yiu Plaza (the Plaza), which is situated at Tin Yiu Estate in Tin Shui Wai. The wet market stalls within the Plaza will be moved to the adjacent Tin Shing Market currently under renovation (whereas the two markets are seven to 10 minutes away from each other in terms of walking distance and connected by a footbridge and lift). There will be shops selling vegetables, meat and food items in the Plaza after the consolidation. The Plaza will be air-conditioned. Tin Shing Market, on the other hand, will be re-opened by two phases in end 2015 and early 2016. Its total floor area will be the aggregate sum of the existing Tin Yiu Market and Tin Shing Market before renovation. It will also be air-conditioned.

At present, in Tin Shui Wai, apart from Tin Yiu Market, there are other markets managed by the Link and the Hong Kong Housing Authority (HKHA), as well as commercial facilities operated by private entities. In addition to the abovementioned Tin Shing Market in Tin Shing Court (adjacent to Tin Yiu Estate), the Link also operates markets in Tin Shui Estate, Tin Chak Estate and Chung Fu Plaza. Furthermore, the HKHA operates Tin Yan Shopping Centre and Tin Ching Shopping Centre, including a market provided in Tin Yan Shopping Centre.

My answers to the respective parts of the question are as follows:

- (1) With respect to whether and if so what vetting procedures that the conversion works of Tin Yiu Market, Tin Shui Wai have to go through, the general situation is given below:
 - (i) Tin Yiu Market is located on the first floor of Tin Yiu Plaza at Tiu Yiu Estate, Tin Shui Wai. The site currently falls within an area zoned "Residential (Group A)" on the approved Tin Shui Wai Outline Zoning Plan No. S/TSW/12 (the OZP). According to the OZP, "Market" is an always permitted use, whereas on the lowest three floors of a building (including basements, or the purpose-designed non-residential portion of an existing building), "Eating Place" and "Shop and Services" are also an always permitted use. In other words, no planning permission from the Town Planning Board is required for uses that are always permitted.
 - (ii) Same as other private properties, conversion works at Tin Yiu Market are subject to the Buildings Ordinance (BO). The authorized person is required to make a submission to the Building Authority (BA) according to the BO. Since Tin Yiu Market is a divested property of the HKHA, the Director of Buildings, as the BA, has delegated his statutory power to the Independent Checking Unit (ICU) of the Office of the Permanent Secretary for Transport and Housing (Housing) to process the submission in accordance with the BO, and circulate the applicant's submission to relevant departments, such as Planning Department, Lands Department (LandsD) and Fire Services Department as per the established practice of the Buildings Department (BD). Based on the requirements stipulated in the BO and the prevailing procedures of the BD, the ICU, in exercising the authority delegated to it by the BA, approved in May 2015 the submission concerning Tin Yiu Market.
 - (iii) In addition, the Link must comply with the relevant lease conditions and covenants between the Link and the HKHA.

Under the lease conditions of Tin Yiu Estate (that is, Tin Shui Wai Town Lot No. 38 (the Lot)), the Lot is restricted to non-industrial purposes. The proposed conversion of the concerned market to other commercial uses, such as a shopping complex, does not breach the user clause stipulated in the lease conditions. According to the building plans circulated to the LandsD by the ICU with respect to the proposed conversion of Tin Yiu Market into a shopping complex, the conversion will not cause the total gross floor area of commercial facilities as specified in the lease to be exceeded.

The covenants between the HKHA and the Link contain restrictive covenants. Those covenants require the owners of the commercial and carparking facilities to continue to let out certain commercial units to non-profit-making organizations nominated by the Education Bureau or the Social Welfare Department at concessionary rents for operating social welfare and educational facilities.

As with other private owners, the Link must comply with the legislative regulations (including the Town Planning Ordinance and the BO), and must comply with the lease conditions and covenants with the HKHA. These ensure that changes in the management or control of the facilities divested by the HKHA will not affect the continuation of uses as commercial, car parking, educational, social welfare and recreational facilities.

- (2) According to the Housing Department, the Government has explained to the Legislative Council on various previous occasions the background to and objectives of the divestment of retail and car parking facilities by the HKHA in 2005, as well as the mechanism that is in place to regulate the uses of the relevant facilities. The Link is a private enterprise. So long as its operations comply with the legislation, relevant lease conditions, and terms of covenants made between the Link and the HKHA, the Government and the HKHA cannot and will not interfere into the day-to-day operation and commercial decisions of the Link, including its conversion works on its properties.

- (3) Our focus is on facilitating convenient access on the part of the public to retail outlets in their neighbourhood for meeting their daily needs on food and other necessities. Currently, there exists a variety of channels for the public to purchase fresh food. Apart from public markets, many members of the public when purchasing fresh food may choose to patronize markets, supermarkets and various types of retail outlets operated by other public and private entities. Customer preference for different shopping venues in purchasing fresh food may evolve in tandem with changes in socio-economic circumstances, lifestyles, purchasing power and various other factors. Therefore, taking the population of an area as the sole yardstick in the planning of new public markets may not be appropriate.

The prevailing Hong Kong Planning Standards and Guidelines with respect of the planning of public markets stipulate the relevant factors to be taken into consideration, including the population of the area (including the demographic mix), community needs, the provision of public and private market facilities nearby, the number of fresh provision retail outlets in the vicinity and the public sentiment towards the preservation of hawker areas. This approach is based on a more holistic consideration of all relevant factors, rather than just the size of the population, in the planning of public markets. When preparing or reviewing town plans, the Planning Department will consult the relevant Policy Bureaux and departments, so as to ascertain whether there is a need to reserve land for public markets. We will, in the light of social developments and the actual situation on the ground, assess the need to review the planning guidelines for public markets as and when appropriate.

Providing a new public market requires the use of Government land and entails public financial commitment. Therefore, in considering whether a public market should be built, we have to duly assess the need for the market and cost-effectiveness in order to ensure that public resources are put to proper use. In fact, in the face of fierce competition and changing circumstances in individual communities, some public markets are facing relatively high vacancy rates and low customer flows. Also, the Audit Commission had in previous reports pointed out that, given the high cost of constructing a new public market, the relevant principles should be strictly adhered to.

In considering whether new public markets should be provided in individual districts, we would take into account all relevant factors, including the abovementioned planning standards and guidelines, the actual situation of individual districts and the views of stakeholders, to ensure that public resources are put to proper use.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, I think the core issue of my question should be answered by the Secretary for Transport and Housing, but Secretary Dr KO Wing-man has attended this meeting to answer it instead. I have great respect for Secretary Dr KO, but his reply did not mention the company which was formerly named The Link Management Limited at all. Actually, at the Legislative Council meeting of 17 December 2008, the former Secretary for Transport and Housing made a remark in her reply and I quote, "in order to ensure that The Link REIT will continue to provide retail and car-parking facilities for residents after divestment". The core issue of my main question is whether the agreement back then is still valid. However, Secretary Dr KO did not answer that question at all and he only responded to the issues relating to public markets. I would like to ask the President to determine whether my question should have been answered by the Secretary for Transport and Housing.*

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

MR LEUNG CHE-CHEUNG (in Cantonese): *President, I hope that you can ...*

PRESIDENT (in Cantonese): It is for the Government to decide which public officers will attend a meeting of this Council to answer Members' questions.

MR LEUNG CHE-CHEUNG (in Cantonese): *I hope that you could make arrangements in this regard. Secretary Dr KO, I am very dissatisfied about the arrangement, but since you have attended this meeting on behalf of the Government, I would like to ask you a question. I think the Link has neglected the needs of the residents. On the day when the Link announced its plan to close Tin Yiu Market, it was infuriating for the Link to make the comments that the*

residents could walk to the adjacent shopping centre in Tin Shing Court to buy fresh food products. The residents responded that about 8 000-odd elderly people were living in Tin Yiu Estate and the nearby public rental housing estates at present. These people would have to walk more than 10 minutes to the adjacent market to buy fresh food products and carry many items on their way back every day.

I would like to ask Secretary Dr KO: As a principal official of the Government, will he spare some time in the future to walk with the elderly residents of Tin Yiu Estate to Tin Shing Court to buy fresh food products, and see if the elderly residents really have no problem?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, apart from the issues about markets raised in the last part of Mr LEUNG's question, the authorities have, in contemplating a reply to the question, also considered the other issues raised in the earlier parts of his question. I have come here today to answer this question on behalf of the Government. The question certainly covers policies on public markets, and as Mr LEUNG said, it also involves the Government's then policies on divesting some properties to The Link Management Limited (a private company now renamed as "Link Asset Management Limited" (the Link)).

In preparing to answer this question, I have made enquiries with my colleagues in a number of Policy Bureaux and government departments. As I said in my main reply, it is true that covenants had been made when the properties were divested. It is stipulated that the company has to take up certain obligations after taking possession of the facilities concerned. Since I have mentioned this point earlier, I will not repeat it.

However, as I understand it, these requirements are relatively general and involve different aspects. The company's initiatives of putting the properties to commercial use and providing commercial retail shops do not contravene such requirements under which the Link is not obliged to provide wet markets in its properties, nor is it obliged to sell products which the public would expect to be available in wet markets. As long as the company puts the property to commercial use, provides retail shops and operates the place as a market, such requirements have not been contravened.

Hence, I am well aware that such a mechanism may not meet the expectations of local residents for the Link to completely retain the wet market in its original form.

Second, President and Honourable Members, as a commercial operator, the Link certainly has to take profits into account and as a listed company, it has to consider the interests of its shareholders. Nevertheless, I personally agree that a commercial operator has social responsibilities to fulfil too. Even for business decision which may enhance the company's operational efficiency and promote its interests, the company has to fully consider various interests of different stakeholders in society before making such a decision. Therefore, I entirely understand the aspirations of the local residents (particularly the grassroots). As a public official responsible for policies concerning public markets, I have heard such requests made by the grassroots time and again. They hope that certain shops can be kept so that they can buy daily necessities. They are not concerned about having a state-of-the-art shopping complex at all; they only want to buy what they need.

Regarding the last part of the question ...

(Mr LEUNG Kwok-hung stood up)

MR LEUNG KWOK-HUNG (in Cantonese): *President, a point of order.*

PRESIDENT (in Cantonese): What is your point?

MR LEUNG KWOK-HUNG (in Cantonese): *A point of order. Members and public officers should be treated equally. The Secretary has made repetitive and irrelevant remarks.*

PRESIDENT (in Cantonese): Mr LEUNG, the point you have raised is not a point of order. Please sit down and be respectful to the public officer who is answering the question.

MR LEUNG KWOK-HUNG (in Cantonese): *Expel him from the Chamber.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Finally, I would like to answer the last part of Mr LEUNG Che-cheung's question concerning how the authorities would identify the needs of the public. Mr LEUNG's suggestion is certainly one of the options, but I believe the Policy Bureaux would have different ways to determine the residents' needs for certain facilities in a particular district.

PRESIDENT (in Cantonese): Secretary, if you have a cell phone or an electronic device with you, please put it aside.

This Council has spent more than 18 minutes on this question already. Apart from the Member who asked the main question, no other Member can raise any supplementary question so far. Therefore, would the public officer please respond concisely and precisely.

MR FREDERICK FUNG (in Cantonese): *President, I am very dissatisfied that the Secretary for Transport and Housing has not attended this meeting today. Secretary Dr KO's previous answers were downright irrelevant and he also said that it would be alright if the property concerned continues to be used for commercial purpose. Is he aware that by converting a wet market into a shopping complex, there will be a change in the level of rents and, if put on sale in future, the selling price will be much higher? Does the Secretary know that when the Government divested the shopping complexes to The Link Management Limited back then, the company had made an agreement with the Housing Department the terms of which were similar to the agreements made on the markets currently managed by the Housing Department? Those terms require that the markets and shopping complexes in public rental housing estates serve to provide services for the residents of those estates. If the wet market is to be converted into a shopping complex as proposed, has the Housing Department considered which wet market stalls will be replaced? By how much will the rent of those stalls increase after the conversion? Will the adjusted rent affect the price of the products sold in the market or the shopping complex? In fact, all of these questions should be answered by the Secretary for Transport and Housing. Secretary Dr KO is responsible for policies on health and municipal services; he is not responsible for handling business-related questions ...*

PRESIDENT (in Cantonese): Mr FUNG, you have raised your supplementary question, please let the Secretary answer it.

MR FREDERICK FUNG (in Cantonese): ... which should be dealt with by the Housing Department. May I ask Secretary Dr KO whether he can answer my supplementary question today on whether the authorities have assessed the possible increase in the rent and the land value of the property after the wet market is converted into a shopping complex? Does the arrangement aim to facilitate the Link in selling the market in the future? Regarding the past promises made by The Link Management Limited to the Housing Department ...

PRESIDENT (in Cantonese): Mr FUNG, you are repeating your supplementary question. Please sit down.

MR FREDERICK FUNG (in Cantonese): ... have the authorities assessed how many of them can remain unchanged?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, although I have to answer Mr FUNG's supplementary question directly, I must respond to his remarks made at the beginning. Let me say that I would disagree strongly if he thinks that my previous replies were irrelevant.

(Some Members spoke loudly in their seats)

PRESIDENT (in Cantonese): Would Members please keep quiet.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Before the Member raised his question, he repeatedly told us the background of the divestment of the property. Although I respect the President's earlier remarks, I have to respond to the background mentioned by the Member in his question.

At present, in Tin Shui Wai, apart from Tin Yiu Market, there are other markets operated by the Link and the HKHA as well as some privately-run facilities, as I mentioned earlier. The HKHA has assessed the needs for the facilities in the district and we have participated in the relevant work.

MR FREDERICK FUNG (in Cantonese): *President, my question is ...*

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

MR FREDERICK FUNG (in Cantonese): *Has the Government (particularly the Housing Department) assessed how the lives of the local residents and the actual services provided to them will be affected when the number of market stalls is reduced as a result of the conversion of the market into a shopping complex? When the authorities sold the market to The Link Management Limited back then, they had made it clear that the number of shopping complexes and markets providing services to the residents would not be reduced.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): When I answered Mr LEUNG's question earlier, I had pointed out that when the authorities sold the property back then, some covenants and other conditions (for example, land lease conditions) were made. In preparing for a reply to this question, I had, as Members or the public have hoped, studied the contents of the covenants to see if there were any provisions under which we might stop the Link from carrying out the currently proposed conversion works, but the answer is in the negative. Therefore, when I answered Mr LEUNG's earlier question, I had to put in some other comments.

In order to understand the contents of the covenants, we have to study the provisions in the legal documents and seek legal advice. In handling this question, a number of Policy Bureaux had studied the provisions, but the public may not find our conclusion agreeable. We cannot stop the Link from proceeding with its current plan by virtue of the covenants alone because its plan does not contravene the relevant requirements. I understand that this point is not relevant to the Member's question. The Member is concerned about the public's perception that the Link's proposed action, albeit not in contravention of the relevant requirements, would actually change the use and mode of operation of the property. I have expressed some personal views earlier and I hope Members would understand.

PRESIDENT (in Cantonese): At this point, eight Members are still waiting to ask their supplementary questions. Apart from the Member who asked the main question, only one Member could raise a supplementary question, but this Council has spent more than 23 minutes on this question. Second question.

World Health Organization's Evaluation Report on Carcinogenicity of Consumption of Processed Meat and Red Meat

2. **MR IP KWOK-HIM** (in Cantonese): *President, I believe that since the Food and Health Bureau's answer is rather long, I am afraid not too many Members will have the chance to ask questions.*

President, on the 26th of last month, the International Agency for Research on Cancer under the World Health Organization (WHO) published an evaluation report on the carcinogenicity of the consumption of processed meat and red meat. Processed meat has been classified as "carcinogenic to humans" (i.e. Group 1) and red meat has been classified as "probably carcinogenic to humans" (i.e. Group 2A). The experts concerned have concluded that a daily consumption of 50 grams of processed meat products will increase the risk of colorectal cancer by 18%. Given that quite a number of people in Hong Kong love eating red meat as well as processed meat products such as bacon, sausages and ham, WHO's research findings have undoubtedly aroused concerns. In this connection, will the Government inform this Council:

- (1) *as there are differences in the ingredients of processed meat products from various places and in the body constitution of people from different ethnic origins, and various types of cancers have different causes, whether the authorities have studied if WHO's aforesaid report is applicable to the situation in Hong Kong; if they have, of the details, and the authorities' corresponding measures; if not, the reasons for that;*
- (2) *given that WHO's aforesaid report has pointed out that red meat poses cancer risks on one hand, red meat contains the nutrients essential for maintaining the normal functioning of the body (in particular the brain) on the other, whether the authorities will issue guidelines on the quantity of red meat on healthy menus and carry out publicity and educational work in this respect in order to ensure*

that the food supplied by institutions providing food to certain groups of people (including the Correctional Services Department, hospitals, schools and residential homes) as well as restaurants is in conformity with the principle of a balanced diet, and that members of the public will be able to make informed food choices, so as to avoid overcorrecting; if they will, of the details; and

- (3) *given that under some existing support schemes subsidized by the Government (such as the Short-term Food Assistance Service Projects for the poor), the food items distributed are mostly processed food such as canned food, supplemented by a few fresh food coupons, whether the authorities will require organizations operating such schemes to consider increasing the proportion of fresh food in the food items to be distributed, so as to avoid increasing the cancer risks of their service targets; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as the risk factors associated with many types of cancers are closely related to lifestyles, the Department of Health (DH) has been actively promoting healthy lifestyles, such as avoiding tobacco and alcohol, having regular physical activities, maintaining a healthy body weight and waist circumference, eating more vegetables and fruits, reducing the consumption of red meat and processed meat, and so on, as a major preventive strategy to reduce the effects caused by non-communicable diseases, such as cancers, to the public and society. We believe the public also understand that fresh ingredients are healthier than processed meat. However, the evaluation results on the carcinogenicity of the consumption of processed meat and red meat published by the International Agency for Research on Cancer (IARC) of the World Health Organization (WHO) on 26 October 2015 have attracted global attention. The evaluation of the IARC is mainly an epidemiological investigation into the association of cancer with the consumption of processed meat and red meat, and the classification has been made with no recommendation on the safe intake levels of the food concerned.

A Working Group of 22 experts from 10 countries convened by the IARC Monographs Programme has considered more than 800 studies that investigated the association of more than 10 types of cancers with the consumption of red

meat or processed meat in a number of countries where people have diverse diets. Processed meat has been classified as "carcinogenic to humans" (Group 1), based on "sufficient evidence" that the consumption of processed meat causes colorectal cancer in humans; while red meat has been classified as "probably carcinogenic to humans" (Group 2A), based on "limited evidence" that the consumption of red meat causes cancer in humans and "strong" mechanistic evidence supporting a carcinogenic effect. The IARC announced the above results without setting any safe intake levels for processed meat or red meat.

As the report published by the IARC has aroused widespread attention and concerns, the WHO made a statement on 29 October 2015 that it had released a report in 2002 to advise members of the public to have moderate consumption of preserved meat so as to reduce the risk of cancer. The report published by the IARC does confirm the abovementioned advice of the WHO. The report does not ask people to stop eating processed meat. Instead, it indicates that reducing the consumption of such products can reduce the risk of colorectal cancer. The WHO will continue to research into the role of processed meat and red meat within the context of a healthy diet.

As the contents of the IARC's report and the concepts behind the analyses are very professional and technical, they are not easy to understand. I would like to take the opportunity to explain as follows:

- (1) As there is scientific evidence showing that processed meat is carcinogenic to humans, it is thus classified as Group 1, same as tobacco smoking. However, the carcinogenicity of consumption of processed meat cannot be compared to that of tobacco smoking.
- (2) The IARC estimates that a daily consumption of 50 grams of processed meat will increase the risk of colorectal cancer by 18%. According to the most recent estimates by the Global Burden of Disease Project (an independent academic research organization), about 34 000 cancer deaths per year in the world are attributable to diets high in processed meat, while about 1 million cancer deaths per year are caused by tobacco smoking. Hence, although both processed meat and tobacco smoking are classified as Group 1, the risk of cancer deaths caused by the two can be very different.

- (3) We agree with the WHO's statement and consider that it is not necessary to ask the public to stop eating processed meat. But the public should be aware that frequent consumption of processed meat will increase the risk of colorectal cancer, and the consumption of such products should be reduced.

As mentioned above, the DH is committed to promoting healthy lifestyles as the major prevention strategy against cancer. Apart from promoting healthy lifestyles, the DH has specifically reminded the public that consumption of red meat and processed meat is associated with a higher risk of colorectal cancer. For example, feature articles entitled "Red meat consumption: the Good and the Bad", "Be Cancer Aware" and "Taking Care of Your Bowels — Colorectal Cancer Prevention and Screening" are published by the Centre for Health Protection to explain the benefits and risks of eating red meat and processed meat, related health tips, as well as ways to prevent colorectal cancer.

In addition, the DH and the Cancer Expert Working Group on Cancer Prevention and Screening under the Cancer Coordinating Committee jointly published a booklet entitled "Prevention and Screening for Colorectal Cancer" in 2013. The booklet sets out the risk factors for colorectal cancer, which include high consumption of red meat and processed meat, and recommends the public to reduce consumption of red meat and processed meat.

At the same time, the DH promotes the principles of healthy eating with the use of the "Food Pyramid", which include choosing food that is low in fat, salt and sugar. Consumption of processed meat is not encouraged as their fat and salt content can be relatively high.

As for students, the DH launched the "EatSmart@school.hk" Campaign in primary schools in the 2006-2007 school year and published the Nutritional Guidelines on Lunch for Students (for use in primary and secondary schools). The Guidelines suggest that given five school days in a week, lunch suppliers should not serve item(s) from the limited food group on more than two school days per week. Items from the limited food group include processed or preserved meat, such as bacon, ham, sausages and luncheon meat.

The Nutritional Guidelines for Children Aged 2 to 6 issued by the DH recommend pre-primary institutions to use fresh and healthy ingredients and avoid processed meat.

Moreover, the DH has been actively promoting the importance of a balanced diet, choosing nutritious, natural ingredients and avoiding processed meat in health promotion activities for elderly people, their carers and the meal service providers of elderly homes. Based on the healthy eating principle, the Elderly Health Service of the DH has published guidelines on the design of menu for elderly homes, as well as leaflets on promotion of a low sodium diet, stressing that processed food generally have a high salt content and should be avoided. It also encourages selecting a wide variety of foods from different food groups and avoiding dietary bias so as to avoid excessive consumption of red meat and processed meat.

At the community level, the DH launched the "EatSmart@restaurant.hk" Campaign in 2008, under which restaurants are recommended to prepare dishes with healthier ingredients and not to use too much processed meat.

In the light of the report of the IARC and the statement of the WHO, the DH has disseminated the related health information to government bureaux and departments and its partners, explaining to them and reminding them to pay attention to the report of the IARC. In particular, government bureaux and departments are advised to reduce the use of processed meat when arranging and providing meals for staff and service targets. The government bureaux and departments are also asked to help disseminate the related information to their stakeholders.

Regarding food assistance, the Social Welfare Department (SWD) has launched Short-term Food Assistance Service Projects (STFASPs) over the territory. STFASPs aim to provide short-term food assistance to help individuals tide over temporary hardship in coping with daily food expenditure. During the initial implementation stage, STFASPs mainly provided dry rations like canned food. Since October 2011, STFASPs have been enhanced to allow for more food choices through provision of food/hot meal coupons to service users for them to redeem food at designated food vendors, supermarkets and meal canteens. The value of food/hot meal coupons now constitutes about 40% of the food distributed to service users. Further to the release of the classification of processed meat as carcinogenic to humans (Group 1) by the WHO on 26 October 2015, the SWD met with the service operators of STFASPs on 28 October 2015 to review the types, nutrition and safety of food items under STFASPs. The SWD will continue to regularly liaise with service operators on the delivery of STFASPs.

In sum, we encourage people to start building up healthy eating habits at a young age, eat more vegetables and fruits, and less red meat and processed meat, and remember the principle of "three lows one high" when choosing food (that is, choose food that is low in fat, sugar and salt, and high in fibre). The DH will continue to keep in view the latest research and recommendations of both local and overseas health authorities, including the WHO. It will also, in collaboration with other partners, promote healthy lifestyles as the major preventive strategy and make amendments to the relevant guidelines when necessary, so as to safeguard public health.

MR IP KWOK-HIM (in Cantonese): *The Secretary spent a long time answering a number of questions but all he was emphasizing was that although the WHO issued those guidelines, he did not believe that the public had to stop eating processed meat immediately. Although there is a growing consciousness for health among the people of Hong Kong, there are few studies on healthy diets. The people of Hong Kong, especially young people, are very fond of sausages, bacon, luncheon meat and hamburgers. Apart from these, hotpots and street snacks are also very popular. Will the Secretary step up the studies in this respect so as to provide the public with information on healthy diets and enhance the people's understanding in this regard?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I understand the Member's query and worries. As regards whether the authorities have conducted studies on dietary nutrition and health matters, the answer is in the affirmative and there are actually many such studies. The DH does from time to time conduct internal studies on the nutritional values of the combination of food intakes in the public's diets and related matters. Besides, many academic, community and non-governmental organizations in Hong Kong also carry out many such studies. Members may have noticed that some organizations or academic institutions also, from time to time, publish relevant information at press conferences, briefings or seminars.

I believe that the people of Hong Kong today have many opportunities to come in contact with the information about healthy diets and many people also understand what unhealthy foods consist of but the biggest problem for us is how to influence people's behaviour even though they understand where the problems lie. Apart from vigorously launching publicity campaigns to disseminate

health-related messages, the DH and many organizations also devise various ways to influence people's behaviour, for example, as mentioned in the main reply, the authorities not only disseminate messages in schools but also formulate guidelines and work with schools to directly influence the food combinations of school meals provided to secondary and primary students.

DR HELENA WONG (in Cantonese): *President, the Secretary said that the DH has issued various guidelines to secondary and primary schools and kindergartens, but he did not specify whether the Government has taken the initiative to inspect and understand the implementation of the guidelines and to check if the expected effects have been achieved. Does the Secretary know the real situation? Concerning the school meals provided in five days of the week, is rice with sausages, luncheon meat or fried eggs served very often?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): *President, I dare not use the word "inspect" but we work closely with the stakeholders (including schools and other academic institutions). We not only disseminate relevant health-related messages but to a large extent, we also launch interference measures to influence the public's behaviour and eating habits. Of course, the DH also collects feedback and information to evaluate the effects of various measures. There is certainly plenty of information on this subject.*

MR WONG KWOK-HING (in Cantonese): *President, I had once compared the amount of public fund wasted on filibusters in the Legislative Council to the number of tins of luncheon meat provided by food banks. And now it is reported that luncheon meat may cause cancer and that has aroused public concern.*

In his main reply, the Secretary said that soon after the WHO published the relevant findings on 26 October, the SWD conducted a review on 28 October, and I welcome the prompt action taken. But in his reply, the Secretary has not revealed the result of the review. Hence, I would like to ask the Secretary the result of the SWD's review on 28 October. Will the SWD continue to provide the same quantity of luncheon meat as before or more choices will be given to the service users? Because of the limited choices available to the users, I hope that the Secretary will give us a detailed reply, explaining to us in detail the result of the SWD's review.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): I believe Mr WONG may have noticed that other than the information he just mentioned, I also pointed out in my main reply that a new initiative under the STFASPs has been launched recently. At present, food banks not only give out various foods to service users, such as canned food, but food/hot meal coupons are also distributed to them so that service users may redeem food of their own choice at supermarkets or other food vendors.

Of course, I have also mentioned that the SWD met with the stakeholders and organizations concerned on 28 October 2015. At the meeting, the SWD disseminated all messages that required our attention after the publication of the WHO's guidelines. I believe that the SWD will continue to liaise with these organizations closely and watch over the progress of the work in this respect.

I also believe that the DH will continue to follow up this work through the SWD. However, I hope everyone will understand that owing to the way food banks operate, it would be far more complicated for them to deliver fresh food than to deliver stored or packaged food. Hence, I have mentioned another operation mode just now which is to give the people or service users food coupons for them to redeem fresh food of their choice. Besides, the food provided by food banks is not the recipient families' major source of food but supplementary only.

MR WONG KWOK-HING (in Cantonese): *President ...*

PRESIDENT (in Cantonese): Mr WONG, the Secretary has already answered your supplementary question. There is only less than a minute left before the time limit for this question is up. Please leave the remaining time for Mr Steven HO to ask his supplementary question.

MR STEVEN HO (in Cantonese): *President, just now Secretary Dr KO explained the report of scientific findings published by the IARC in three points. Let me quote the third point: "We agree with the WHO's statement and consider that it is not necessary to ask the public to stop eating processed meat. But the public should be aware that frequent consumption of processed meat will increase the risk of colorectal cancer, and the consumption of such products*

should be reduced." This reminds me of the new committee formed by the Government early this year, which, as I see it, seems to carry the same message, that is, we agree with the WHO's statement and consider that it is not necessary to ask the public to stop eating salt and sugar. But the public should be aware that excessive consumption of salt and sugar will increase the risk of high blood pressure, high cholesterol and high blood sugar, and the consumption of such products should be reduced.

I do not know the current ranking of salt and sugar among the carcinogenic foods but processed meat products should rank the same as tobacco ...

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

MR STEVEN HO (in Cantonese): ... Hence, I wish to know whether the Government will form a special committee on the consumption of processed meat products or whether it will expand the ambit of the Committee on Reduction of Salt and Sugar in Food. If not, how is the Government going to carry out the publicity work concerned?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I must make a clear explanation. As pointed out in my main reply, the findings of the study just published are, I believe, more relevant to the work of public health workers like us, which means, they are of greater reference value to us. To the general public, however, please do not mind my bluntness, they make little sense. Generally speaking, in the mind of the public, if there is a rating, they believe the higher the ranking, the greater the risk. But the case is not so. The rating in this case refers to how solid the proof is. As explained earlier, although both processed meat products and tobacco are classified as Group 1 but the cancer-causing and death risks of the two are way different.

On this point, it is necessary for us, public health workers, to learn from this as it concerns a very important issue, which is, the communication with the public. When these findings are published, the public naturally think they are about a risk rating but that is actually not the case. We will learn from it.

Although we kept a high profile in establishing the Committee on Reduction of Salt and Sugar in Food, which somewhat attracted much attention, but that does not mean we are not doing any work in other areas. We are actually working in many areas relating to fat and carcinogenic foods, including processed meat. As I have already mentioned that, I will not repeat.

PRESIDENT (in Cantonese): We have spent 24 minutes and 30 seconds on this question. Third question.

Using Facebook Pages as a Communication Tool

3. **DR LAM TAI-FAI** (in Cantonese): *President, the Chief Secretary for Administration said last month that the Government would actively develop multimedia platforms and better utilize social media to extend its reach, so as to enhance its communication with members of the public. After assuming office for more than three years, the Chief Executive (CE) launched his Facebook page (FB page) for the first time in October this year and shared his experience in planting honey peaches and dragon fruits. On the other hand, according to the findings of the public opinion surveys conducted by various universities, the popularity ratings of CE have been persistently low, at a level below the warning line. Such figures have also revealed that the younger and the more educated the respondents are, the stronger they are opposed to CE holding the post. In this connection, will the Government inform this Council:*

- (1) *whether it has assessed if the launch of the aforesaid FB page is conducive to enhancing communication between CE and the public, as well as raising CE's popularity and the levels of public support and trust in him; if it has, of the details; if not, the reasons for that;*
- (2) *as I have learnt that among the members of the current Election Committee for the selection of CE, Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, and members of the Executive Council, Legislative Council and District Councils, as well as deputies of the Hong Kong Special Administrative Region to the National People's Congress, not all of them have been invited to join the list of friends of that FB*

page, whether the authorities have assessed if this approach will affect the effectiveness of the Government's efforts in improving the relationship between the Executive Authorities and the Legislature, uniting different sectors of society and creating a "Hong Kong Camp", etc.; if they have, of the details; if not, the reasons for that; and

- (3) *whether it has deployed public resources to maintain and update that FB page; if it has, whether the resources so deployed include CE's time for official business; if so, whether the authorities have assessed if the use of CE's time for official business to maintain and update that FB page has affected the quality and efficiency of policy implementation by the Government as well as CE's workload; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, the SAR Government all along attaches great importance to its communication with various sectors of the community and proper dissemination of information about public services and policies for the public's reference. On dissemination of information, the Government in the past usually promulgated its policies and made announcements by holding press conferences, issuing press releases, broadcasting Announcements in the Public Interest on television and radio, arranging media interviews for officials at various levels, and so on. As regards communication with the public, it has been the Government's practice to get hold of public opinion through Councils at different levels and various advisory bodies. Government officials would also go to districts and contact the people direct from time to time to gauge public sentiment.

In recent years, with the use of Internet and social media becoming more and more popular, additional platforms have been made available for communication between the Government and the public. The Government understands that it needs to update its means of communication with the public to tie in with the changes in their habit of reading news and getting information. Although the conventional practice, that is, disseminating information through mass media and garnering public opinion through Councils at different levels and advisory bodies, remains useful, the Government needs to keep up with and make use of the latest trend of information exchange through electronic platforms.

The Government also recognizes that young people are more inclined to express their views through social media and are expecting immediate dissemination of government information.

To adapt to the abovementioned changes, the Government has stepped up its efforts in communication and publicity using new media. Government departments have generally set up websites, providing the public with direct online access to information on public services and government policies, as well as email addresses for the public to make suggestions and enquiries. Government departments and officials are also further strengthening their communication with the public and information exchange by way of mobile apps, creation of Facebook accounts and YouTube channels, publication of blogs, and so on.

Noting the proliferation of social media and information exchange platforms as a result of rapid technological advancement, the Government will continue to explore and enhance its communication and exchange with the public using social media and electronic platforms. Nevertheless, we shall act prudently in using the new media for communication with the public, striving to strike a balance between disseminating government information promptly and ensuring accuracy of the information to avoid misunderstanding by the public. We shall also explore step-by-step the most effective ways of using social media for further sharing of the work of officials and taking heed of public views. Meanwhile, for the purpose of diversification of channels for communication and exchange, we shall continue to disseminate information through mainstream media and communicate with the public direct through Councils at various levels and advisory bodies to garner public sentiment. We welcome public views in this regard.

Regarding parts (1) and (2) of the main question, the Chief Executive has all along been conveying information to the community through diverse channels, including attending events, visiting districts, delivering speeches and accepting media interviews, meeting the media before the Executive Council meeting every Tuesday, publishing articles, and so on. Since online platforms are becoming more popular, the Chief Executive has also issued blogs from time to time to express his views. Recently, the Chief Executive has also tried using Facebook, a social media platform, to share with the public his reflections on life and work. As it was mentioned above, the Government is exploring the use of the new

media and is doing so through learning by doing. As far as the Facebook account of the Chief Executive is concerned, we shall keep on consolidating the experiences, exploring new platforms, and improving on various arrangements to strengthen our contact with the public. The Chief Executive will also continue to communicate with the public through a variety of means, without confining himself to any particular channel.

Regarding part (3) of the main question, same as the website of the Chief Executive's Office, the Chief Executive's Facebook account is maintained and updated by the Chief Executive's Office and the related work is absorbed by existing resources.

DR LAM TAI-FAI (in Cantonese): *President, this year, many candidates of District Council (DC) election are using Facebook to conduct publicity and disseminate information, with a view to increasing the chance of winning. President, as known to all, the Chief Executive is eagerly and proactively seeking a re-election, but a number of persons, interested in entering the "horse race", are taking active steps and presenting the best of themselves, which include using Facebook to promote themselves and disseminate information so as reach the masses.*

Today, the Secretary is present to answer this question on behalf of the Government. Since he was not only a former DC member and a former Legislative Council Member, he was also the Under Secretary for Constitutional and Mainland Affairs before taking up the present post of the Secretary for Home Affairs. Given his extensive political and election experience, I consider him the most suitable person to answer this question. I would like to ask the Secretary to share with us his opinion about the effectiveness of Facebook in election campaigns, which certainly include the elections of the Chief Executive and the DCs. I hope that he can share with us his extensive election experience.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, in respect of the future Chief Executive election, Dr LAM probably possesses more information than I do, so I have no additional information to provide. Yet, generally speaking, it is imperative for a public figure, be he/she a Member or a government official, to communicate and exchange information with members of the public through a variety of means. At present, Department Secretaries and

Bureau Directors of the SAR Government, as well as various departments, are using different ways to communicate with members of the public, including Facebook, direct exchanges or media interviews, and a recent example is the Chief Executive receiving public views on his Policy Address. There is no one particular communication channel at all. We will continue to adopt a variety of means to communicate with members of the public.

DR LAM TAI-FAI (in Cantonese): *My supplementary question is: May the Secretary share with us, basing on his extensive election experience, his opinion about the effectiveness of Facebook in election campaigns? I asked about the relationship between elections and Facebook, not the relationship between elections and other communication channels.*

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

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, with regard to the part on elections, I have nothing to add.

MS STARRY LEE (in Cantonese): *President, the use of Internet has become part of Hong Kong people's daily life and the number of netizens is increasing, it is therefore all too natural for the communication method between the SAR Government and members of the public to keep abreast of the times. As a matter of fact, many people have criticized the Government's communication methods as insufficient, slow and unimaginative.*

The Secretary, in his main reply, has expressed his wish for Members to provide more input for the Government. Hence, I would like to know the thinking of the Government in this aspect given that a number of consultation documents will be published one after another. In order for its communication methods to stay abreast of the times, can the Government undertake to prepare "consultation document at a glance" to enhance netizens' understanding of the contents of these documents, or produce interesting videos to enhance the public's understanding of the documents when they visit the government websites or relevant web pages?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, first of all, I thank Ms Starry LEE for relaying this message from members of the public, pointing out that the Government's communication methods used to be slow, insufficient and unimaginative. We will listen to these messages with an open mind, but as I have highlighted earlier on, an important reason why we were unable to promptly respond to certain information is that, our response should not only be prompt, the information must also be accurate. Therefore, we need to spend some time collecting information and liaising with the relevant departments.

Regarding the forthcoming consultation exercises mentioned by Ms Starry LEE, we will certainly conduct the consultations through a variety of means, but as to whether the consultation documents can be presented in different ways to enable direct exchanges between members of the public and government officials, we will relay the views to other Policy Bureaux for consideration. However, it should be noted that different consultation documents have different characteristics, we should therefore allow for flexibility in the format of presentation. As such, on the one hand, we will take heed of the views of Members and the general public, and on the other hand, we will make appropriate arrangements in light of the consultation exercises and their uniqueness.

DR KWOK KA-KI (in Cantonese): *Originally, there is indeed a desperately urgent need, understandably so, for Chief Executive LEUNG Chun-ying to create a Facebook page since his historical low popularity ratings have persisted over a prolonged period. However, I learnt that people who are not friends of his Facebook page cannot write any message on it. While I think only people from the democratic camp or Members like us are unable to become his friends, it is discovered that even Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference, deputies of the HKSAR to the National People's Congress (NPC) and members of the Executive Council are not friends of that Facebook page. As I recall, he once vowed to bring along a pen, a notebook and a stool to solicit public views, but now the pen and the stool have disappeared. We were made to think that Facebook serves as an alternative communication method, but the fact is people who are not on the list of friends of that Facebook page cannot leave any message on it.*

Actually, there are many talented people working in different government departments, and among them stands out Financial Secretary John TSANG. His blog has many viewers and it is learnt that the viewers may also leave messages.

Has the Government considered seeking John TSANG's advice during the morning assembly on making a good blog so as to make more friends? Although LEUNG Chun-ying is seeking for re-election, he is reluctant to make friends, what is the point in discussing re-election then?

PRESIDENT (in Cantonese): Dr KWOK, you have raised your supplementary question.

DR KWOK KA-KI (in Cantonese): *President, my supplementary question for the Secretary is: How can we become the Chief Executive's friends? (Laughter)*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, regarding the application of new media, various bureaux or departments of the Government are at the exploratory stage and we are ready to learn by doing. Concerning the Facebook account of the Chief Executive, we will continue to explore and accumulate experience, and will develop a new platform after evaluating its effectiveness. The Chief Executive, on the other hand, will continue to communicate with members of the public through a variety of means without confining to any particular channel.

DR KWOK KA-KI (in Cantonese): *President, my supplementary question is very clear: How can we become friends of the Chief Executive's Facebook page? Can the Secretary answer my question directly? He may say that all Hong Kong people, including me, will never become the Chief Executive's friends, which is an answer anyway. But he has not answered.*

PRESIDENT (in Cantonese): Dr KWOK, you have raised your follow-up question, please be seated.

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

PRESIDENT (in Cantonese): Dr KWOK, please be seated. Secretary, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, there are many different ways to make use of Facebook, and I believe the Chief Executive will use his Facebook account in various different ways. Of course, we will relay Dr KWOK's views to the Chief Executive.

MR CHARLES PETER MOK (in Cantonese): *President, I wonder why Dr KWOK Ka-ki just now asked such a question, which may raise suspicion that he is very eager to become a friend of LEUNG Chun-ying. (Laughter)*

President, this is not the first Facebook account created by LEUNG Chun-ying, who has already done so while running for the office of the Chief Executive in 2012. It is therefore inevitable for his present move to open another Facebook account to raise suspicion about its connection with re-election. On the contrary, Financial Secretary, who is present today, has created his Facebook account long ago and even well before the "symbolic handshake". Thus, Members may make a comparison between the two.

President, I learnt that anyone who wants to become a friend of that Facebook page must first seek acceptance from the Chief Executive. And yet, just as Dr LAM Tai-fai has said, a number of Hong Kong deputies to the NPC as well as members of the Executive Council and the Legislative Council are not on the list of friends of that Facebook page. Since not all Legislative Council Members from the pro-establishment camp support LEUNG Chun-ying, there is no guarantee that they will not leave offensive messages against LEUNG Chun-ying after becoming his friends. If this is the case, I would like to ask the President: Will these people be prosecuted for committing an offence under section 161 of the Crimes Ordinance concerning "access to computer with criminal or dishonest intent"?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, as a representative of the Information Technology sector, Mr Charles Peter MOK should know better than anyone. As a matter of fact, interaction through Facebook is a two-way exchange conducted under an open and just environment. With regard to Hong Kong's criminal law, it should be applicable not only to the community in general, but also the Internet.

MR CHARLES PETER MOK (in Cantonese): *President, does the Secretary's reply imply that friends of the Chief Executive's Facebook page can rest assured that they can speak their mind freely? They have to become his friends before they can leave any message.*

PRESIDENT (in Cantonese): Mr MOK, please be seated. Secretary, do you have anything to add?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I have nothing to add.

MR PAUL TSE (in Cantonese): *President, I agree with the Chief Executive's attempt to explore new ways to enhance his communication channels. Even President OBAMA of the United States, a powerful information society, created his Facebook page only very recently. Likewise, members of the public are only invited to click the "Like" button on that Facebook page but cannot become a friend of the United States President. I therefore think that Members must be fair when making comments on the relevant practices.*

I want to know more about the existing plan of the Government. Apart from learning by doing, is there any plan to surpass President OBAMA by allowing more members of the public to gain access to such communication channels; if there is, what will be the criteria?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, while Mr TSE just now cited other countries as examples, the Government has also made reference to the practices adopted by the political leaders or governments of different countries. We do have something in common, and that is, aiming to enhance communication and interaction with members of the public by making wider use of new media. We are at a very preliminary stage, and the communication methods adopted by different Bureau Directors and Department Secretaries as well as the Chief Executive do vary. We will certainly make reference to the views expressed by Mr Paul TSE.

MR LEE CHEUK-YAN (in Cantonese): *President, in my opinion, if LEUNG Chun-ying wants to make more friends, he should better learn from "Chai-yan" as she definitely has more friends than LEUNG Chun-ying. Also, I wish to thank Dr LAM Tai-fai for raising this question as I have immediately visited his Facebook page.*

Facebook account usually reflects a person's character or things he values. I noticed that the Chief Executive has mentioned his three dogs and flowers, as well as his collusion with foreign forces — meeting with Nancy PELOSI — but he was silent on his meeting with Legislative Council Members. Unfortunately, I have just met with him. The fact is, regardless of which political party he met with, nothing was mentioned on his Facebook page. The Secretary just now highlighted the importance of policy address, which has prompted the Chief Executive to solicit views from the general public and Members. But despite the Secretary's effort to highlight the Policy Address, LEUNG Chun-ying's Facebook was completely silent on his recent meetings with various political parties about the Policy Address, and nothing ...

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

MR LEE CHEUK-YAN (in Cantonese): *... I would like to ask the Secretary: How will LEUNG Chun-ying make use of Facebook to communicate with the public? Is it true that his Facebook page will remain silent on government policies, emphasize foreign forces, turn a deaf ear to public opinion, and ignore the views expressed by Hong Kong people and Members on government policies? Does his Facebook only focus on collusion with foreign forces, and care about dogs and flowers only?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, just as Mr LEE has said, he has met with the Chief Executive to exchange views on the policy address, which is evident that two-way communication is not only confined to Facebook but can also be conducted face to face. Therefore, communication may take place in various forms without confining to any particular channel.

With regard to meetings, since exchanges between the Chief Executive or Bureau Directors and people from different sectors, such as Legislative Council Members, may be subject to confidentiality agreement in some cases, I therefore believe not all meetings can be disclosed. Notwithstanding that, if Members visit the Chief Executive's Facebook page, they may notice that it does not only contain his reflections on life, but also touches on policies. For example, after the Tsing Ma Bridge was struck by a vessel, members of the public have urged the Government to provide an alternative road link. (Appendix 1) I recalled that when the Chief Executive went to Tuen Mun to inspect the massive project of the Tuen Mun-Chek Lap Kok Link on 28 October, he had an exchange with the media and subsequently uploaded some information to his Facebook. I learnt from his exchanges with the netizens that it is the aspiration of the people to have an alternative road link, and this piece of information was disseminated right away. The construction works of the road link have commenced and members of the public were very excited about this.

PRESIDENT (in Cantonese): Fourth question.

Unscrupulous Business Practices of Financial Intermediaries

4. **MISS ALICE MAK** (in Cantonese): *President, some members of the public have complained to me alleging that some staff members of financial intermediaries (intermediaries) tricked them into remortgaging their properties in order to obtain loans to resolve their financial difficulties. Only after signing certain documents did the victims come to realize that such documents contained provisions requiring the signers to pay exorbitant intermediary fees, regardless of whether they eventually took out the loans. It is learnt that some victims have eventually sold their properties as they cannot withstand the harassment and intimidation of the intermediaries. Since last year, I have received more than 140 complaints involving a total amount of as high as over \$130 million, indicating that the situation is serious. Some members of the finance industry have pointed out that the problem of unscrupulous business practices of intermediaries is rather serious, and yet the existing legislation is outdated, resulting in a lack of regulation on intermediaries. In their views, the authorities should review the relevant regulatory regime to uphold the reputation of the finance industry of Hong Kong. In this connection, will the Government inform this Council:*

- (1) *whether the authorities will, by making reference to overseas experience, amend the Money Lenders Ordinance to step up the regulation of intermediaries, such as requiring these companies to regularly submit to the regulator reports on their financial positions, and stipulating that the loan and intermediary service agreements must contain a cooling-off period clause; if they will, of the details; if not, the reasons for that;*
- (2) *in the light of the fact that operators in the money lending industry vary in standard, whether the authorities will reform the relevant licensing system, including (i) tightening the licensing conditions (e.g. requiring applicants to meet the minimum registered capital requirement and have sound business and financial records, licensees to comply with a code of conduct, etc.), (ii) setting up a registration system for practitioners, and (iii) empowering the Money Lenders Registry or a newly established body to perform various regulatory functions, including the formulation and implementation of a code of practice, granting of licences, investigation of non-compliant cases and revocation of licences; if they will, of the details; if not, the reasons for that; and*
- (3) *whether the authorities will provide resources to social welfare organizations with relevant experience to support them in providing disinterested financial management advisory services to members of the public, so as to reduce the cases of members of the public falling into credit traps inadvertently; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Miss MAK's question comprises three parts. My reply to parts (1) and (2) is as follows:

Existing licensing regime

Under the existing Money Lenders Ordinance (the Ordinance), a money lender's licence is granted by the Licensing Court. In applying for the grant or renewal of a money lender's licence, a company is required to provide relevant

information such as information relating to its directors and major shareholders, information of all bank accounts opened for the operation of business as a money lender, documentary proof of the capability of the company and its directors in managing the money-lending business as well as documentary proof of their financial situation, and so on. Such information is provided to the Licensing Court to facilitate its consideration of whether the application will be approved.

The Ordinance also specifies the factors that the Licensing Court shall consider in processing an application for a money lender's licence. The factors include whether the applicant is a fit and proper person to carry on business as a money lender and whether the grant of such licence is contrary to the public interest. No licence will be granted if the applicant fails to satisfy the Licensing Court that he/she is a fit and proper person to carry on business as a money lender, and that the premises to which the application relates are suitable for the carrying on of the business of money-lending, and that the grant of such licence is not contrary to the public interest.

Moreover, for applications for the grant or renewal of a money lender's licence, the Police may, in accordance with the Ordinance, require the applicant to produce for inspection the relevant books, records or documents or to furnish other relevant information. Where there is a reasonable suspicion that a money lender has committed an offence under the Ordinance, the Money Lenders Registry and the Police may, with the authorization in writing of the Registrar of Money Lenders or a police officer above the rank of superintendent, enter any premises where the business of the money lender is being carried on to inspect the relevant documents and accounts. The Police have the authority to seize such information. Under the Ordinance, the Police and the Registrar of Money Lenders may object to a licence or renewal application.

The Ordinance also provides for the power of the Licensing Court to revoke a licence. A licence may be revoked if the Licensing Court considers that the licensee has ceased to be a fit and proper person to carry on business as a money lender or that the licensee has been in serious breach of any condition of the licence.

The above illustrates that the existing legislation has empowered the relevant authorities to take into consideration a set of relevant factors when examining the licence or renewal applications.

Regarding the question of a minimum registered capital, it is a means of prudential supervision for ensuring the financial stability of licensees and applicants. However, unlike financial institutions such as banks and insurance companies, money lenders do not accept and handle deposits and premium payments from the public. Such a supervisory tool may not be applicable to money lenders.

Relevant issues on financial intermediary for money lending business

The existing Ordinance has provisions that prohibit any financial intermediaries from fraudulently inducing members of the public to borrow money from a money lender. According to the Ordinance, it is a criminal offence to fraudulently induce any person to borrow money from a money lender by any false, misleading or deceptive statement, or by any dishonest concealment of material facts. Offenders will be liable to a fine and to imprisonment.

Regarding the issue of suspected illegal fee-charging by financial intermediaries, the Ordinance expressly prohibits a money lender from colluding with any person to charge a fee from a borrower. Offenders will also be liable to a fine and to imprisonment.

If a financial intermediary engages in a commercial practice prohibited by the Trade Descriptions Ordinance such as "false trade descriptions" or "misleading omissions", it commits an offence and will also be liable to a fine and to imprisonment.

If the acts of a financial intermediary involve criminal elements, the Police may handle and follow up on the matter in accordance with existing legislation such as the Crimes Ordinance.

From 2014 to August 2015, the Police conducted a number of special operations against malpractices of financial intermediaries and arrested 91 persons. In September, the Police mounted an operation codenamed "Keyscroller" to combat illicit activities of money lenders and financial intermediaries, and arrested more than 130 persons.

The information shows that the enforcement actions by the Police against malpractices of financial intermediaries have achieved further results. The Government will continue to rigorously tackle breaches of the relevant ordinances.

We are liaising closely with the Police on its enforcement experience. In the next few months, we will make further analysis of all recent enforcement actions taken by the Police, so as to better identify the difficulties experienced by the Police in enforcing the relevant legislation. At the same time, we will also make reference to the submissions made by Members and interested parties. Depending on the outcome of the analysis, we will not rule out reviewing relevant provisions of the Ordinance with a view to ensuring more effective measures against malpractices of financial intermediaries. We can follow up and discuss the matters concerned at the Panel on Financial Affairs.

As regards part (3) of the question, the Investor Education Centre (IEC), the Consumer Council and the Police have been reminding the public through different means of the points to note when taking out loans. They have also taken measures to raise awareness of fraudulent practices through different channels and to remind the public to understand thoroughly the terms and conditions concerning the fees and charges in any loan agreements or financial contracts.

Loan and debt management has all along been a focus of IEC's key education efforts. The IEC has, starting from this June, launched a series of education activities on borrowing to draw the public's attention to the points to note and the risks involved in borrowing a loan.

The IEC has also worked with social welfare institutions to promote debt management in the community. For instance, the IEC co-operated with the Caritas Hong Kong in September and October 2015 in organizing two seminars which covered debt management information including risk on money lending, calculation of interest rate, loan products and personal credit report.

In addition, the IEC published posters on pitfalls of money lending and property loans in October 2015, and posted them in the areas managed by the Housing Department, public rental housing, and housing under the Home Ownership Scheme by phases through the Hong Kong Housing Authority. The IEC also continues to enhance public education on money lending through the mass media and the e-newsletters of the Centre.

MISS ALICE MAK (in Cantonese): *President, since submitting the question, the number of complaints I received has increased to almost 160 on aggregate, with the amount of money involved increasing to over \$150 million. It shows that the situation is getting more and more serious.*

In his main reply, the Secretary mentioned the operation codenamed "Keyscroller" mounted by the Police. First of all, I would like to thank the Police for attaching importance to the matter and undertaking effective enforcement actions. But regrettably, I notice from the complaints received in the past one or two weeks that the companies which have been busted by the Police with arrests made in its enforcement actions have seemingly returned to perpetuate fraudulent acts under a shell company with a new name.

In fact, it would be most important to impose regulation at source through statutory requirements to control unscrupulous intermediaries and avoid members of the public being cheated. In his main reply, the Secretary said that the authorities "will not rule out reviewing relevant provisions of the Ordinance", and the matters concerned would be followed up at the Panel on Financial Affairs. In fact, this matter has already been included in the Panel's list of outstanding items for discussion, yet no definite discussion date has been set. I hope the Secretary will take the initiative to fix a meeting date so that discussion can take place as soon as possible.

Separately, in response to my suggestions in the main question about tightening control over money lenders, specifically about requiring applicants to meet the minimum registered capital requirement, and so on, the Secretary stated in the main reply that from a professional point of view, the above supervisory tools are not applicable to money lenders. But as far as strengthening the regulation on money lenders is concerned, I have also suggested in the main question that the applicants should have sound business and financial records, the licensees should comply with a code of conduct, a registration system for practitioners should be established, a code of practice should be formulated, so on and so forth, in addition to the minimum registered capital requirement. By the Secretary's reply, does it mean that except for the minimum registered capital requirement, other suggestions are applicable to money lenders, and the Government will review the legislation along this direction for the purpose of strengthening regulation on money lenders?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Thanks to Miss MAK for the supplementary question. To begin with, I would like to point out that the Bureau attaches great importance to the matter and has been maintaining close contact and liaison with the Police. As I said a moment ago, the Bureau will consider how to follow up on the matter, including the need for legislative amendments, and so on, after gaining a thorough understanding of the difficulties experienced by the Police in law enforcement.

We know very well that criminals will always deploy the most extreme fraudulent tactics. Hence, aside from the need to follow up on law enforcement, we must also consider adopting different methods to prevent them from returning. The enforcement actions taken presently are only the beginning, and the Bureau will continue working hand in hand with the Police to eradicate the unscrupulous or illicit acts.

Regarding Miss MAK's question about how to follow up the matter, including factors to be considered when amending the legislation, we will follow up the matter by making reference to the views of interested parties and Members when studying various suggestions comprehensively. I am more than happy to raise the matter for discussion at the Panel on Financial Affairs in due course so that we can brief Members on the relevant position.

MR DENNIS KWOK (in Cantonese): *President, today, we finally get the Secretary's undertaking that consideration will be given to amending the outdated provisions in the Ordinance so as to plug various loopholes. The truth is that we have been discussing this matter for a long time.*

The provisions under the Ordinance are far from refined. Moreover, there is no monitoring authority with substantive powers to regulate the business practices of financial companies. In this connection, I hope the Secretary can give this Council an undertaking on the following. First, the Government should present its proposal to amend or reform the Ordinance to the Panel on Financial Affairs for discussion as soon as possible. Second, the amendments should include the establishment of an independent supervisory body to regulate the operation of financial companies. Third, the reform of the Ordinance should

also cover the regulation on money laundering as many people hold that money laundering is the source of funds for these financial companies and hence, the Bureau should pay more attention to it.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I hope Members could see that the Government attaches great importance to the matter and has been handling it seriously. At this stage, the Bureau is liaising with the Police, so as to consolidate the relevant experience and consider the direction of amendments to be made to various provisions of the Ordinance. Although I cannot pinpoint the areas in which amendments are warranted or the direction of reform right away, we will gladly listen to and study the views expressed by Members. We will also propose the relevant agenda item for discussion by the Panel on Financial Affairs as soon as reasonably practicable, so that the public will also be briefed accordingly.

MR CHAN KIN-POR (in Cantonese): *President, the malpractices of unscrupulous intermediaries would indeed create long-suffering consequences for the victims. Having met some victims personally, I have a fair understanding of the far-reaching adverse impacts that they were put through.*

In the past, the Government has always refused to review the Ordinance. Echoing Mr Dennis KWOK's view, I also hold that the Secretary's present undertaking to review the Ordinance taking into account the views of Members and interested parties is a major step forward. But to ensure the delivery of results by the Government, I would like the Secretary to give us a timetable, for instance, whether the initial study findings or a directional document on the reform can be presented to the Council within three months or six months? I hope he can give us a timetable along this line.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Mr CHAN, we will definitely brief Members as soon as possible.

MR CHAN KIN-POR (in Cantonese): *My question is: Can the Secretary give us a timetable? Is he talking about a timeframe of three months or six months?*

PRESIDENT (in Cantonese): Secretary, can you provide a specific timetable?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I honestly cannot give a specific timetable right now. But I am more than happy to maintain communication with Members, both inside and outside this Council. The Bureau always welcomes the opportunity to have detailed discussion with Members.

MR ALBERT HO (in Cantonese): *President, in the past two or three years, with the number of complaint cases and victims being misled or defrauded by financial companies or intermediaries, as well as the amount of money involved constantly increasing, the public has become concerned about the seriousness of the problem. But even to this date, the Secretary is still giving us a trifle reply. In my view, his reply does not only create disappointment to the public, but also provoke a furore among the victims. Even to this date, the Bureau has yet to give us a specific timetable on the formal review or revision of the Ordinance.*

Regarding the statistics provided by the Bureau today, for example, from 2014 to August 2015, a certain number of operations have been undertaken by the Police, and a certain number of persons have been arrested, so on and so forth, can the Secretary tell this Council specifically that of the 130 persons arrested in September, how many prosecution cases have been initiated? How many people have been convicted? How many money lender licences have been revoked? Do the authorities know that it would only bring little help even if illicit money lenders were convicted or have their licences revoked because they usually hold multiple licences? By the way, would these figures help give the authorities a better understanding of the difficulties in enforcement and hence, consideration be given to establishing a task force before the legislative amendment exercise so as to curb these fraudulent cases through targeted study on the characteristics of the crimes?

PRESIDENT (in Cantonese): Mr HO, you have raised at least half a dozen questions.

MR ALBERT HO (in Cantonese): *President, these are interrelated questions.*

PRESIDENT (in Cantonese): Secretary, can you respond to the questions about statistics and follow-up actions?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Mr HO can rest assured that I share his concern in this matter. Let me reiterate that I will handle this matter seriously.

As far as the statistics on prosecution cases or follow-up actions are concerned, I do not have such data with me because some cases are ongoing. Nonetheless, in view of the concern expressed by the public and Members on this matter, the Bureau has proactively maintained effective liaison with the Police in respect of law enforcement.

Since 1 August this year, the Police have revised the relevant guidelines so that complaints relating to unscrupulous acts of intermediaries would be followed up and investigated by crime units, with the Organized Crime and Triad Bureau taking the lead in combating illicit money lending and debt collection activities.

We will maintain co-operation with the Police. Apart from stepping up law enforcement, we hope to gain a better understanding of the entire enforcement process, including the difficulties in prosecution and producing evidence, so that the Bureau can also consider the direction of revision when contemplating the need for legislative amendments.

As far as the timetable is concerned, I implore Members' understanding that it would be difficult for me to commit on a specific date for presenting the proposals to the Legislative Council. But we will expedite our work and hopefully, the relevant agenda item can be discussed by the Panel on Financial Affairs in the first quarter of next year.

MR ALBERT HO (in Cantonese): *President, just now, I specifically asked the Secretary whether a task force would be set up to study these crimes. Yet he replied that criminal investigation would be conducted. I am quite surprised to hear this answer because everyone should know that such cases involve breaches*

of criminal offences, right? My question is: Is there a dedicated task force under the criminal investigation units to study this type of special crimes?

PRESIDENT (in Cantonese): Secretary, has a task force been established to handle the relevant work?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): In this regard, there is a mechanism between the Bureau and the Police to maintain communication and undertake relevant studies.

MR KWOK WAI-KEUNG (in Cantonese): *President, some unscrupulous and illicit money lenders and intermediaries have indeed been punished as a result of the large-scale operations conducted by the Police recently, but prevention is always better than cure. That is why a moment ago, Honourable colleagues have all spoken about the need to amend the Ordinance as soon as possible.*

Having studied some cases personally, I note the victims' general view about the limited provision of debt counselling services in the community. As a result, when members of the public run into debt problems, they could easily fall into these traps because they do not have sufficient information about the alternatives available. My question is: Will the authorities enhance the provision of support for voluntary organizations providing independent debt management services, both in respect of resources and publicity, so that their services can be improved to ensure the wider dissemination of relevant information among the general public?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as stated in the main reply, the IEC will enhance its work. I also know that this kind of services is being provided by many voluntary organizations in the community. The Bureau is most willing to maintain dialogue with these organizations, in order to gain a better understanding of the assistance that might be provided by the Government to help them do a better job, which can in turn help members of the public resolve their debt restructuring issues.

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

MR KWOK WAI-KEUNG (in Cantonese): *Just now, I specifically referred to the aspects of resources and publicity. Will the Bureau take the initiative to provide assistance to these organizations in respect of resources?*

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

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): The Bureau will be most willing to follow up the matter. We will hold discussions with the relevant organizations on the areas of assistance which might be required in their work.

MR SIN CHUNG-KAI (in Cantonese): *President, the Secretary talked about welcoming communication just now. But when I wrote to invite him for a meeting to discuss the matter, he turned me down. Is that some gesture of "welcoming communication"? Secretary, having jumped off the ivory tower to join the bureaucracy, you are now a senior public official, but you are actually doing political work. I do not know if you have personally heard any stories recounted by the victims. If you have, you should feel differently, and your reply would be more "passionate" ...*

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

MR SIN CHUNG-KAI (in Cantonese): *My question is quite simple. Regarding the persons arrested by the Police in the operation codenamed "Keyscroller", is there any empowering provision under the Ordinance such that after a licensee has been arrested, the relevant company or all connected companies where he serves as a board member must suspend operation immediately until the*

prosecution case is dealt with? The authorities must have a trump card before the problem can be resolved. Otherwise, it shows that the Ordinance is ineffectual, and legislative amendments are warranted. My question is: Is there any provision under the Ordinance to require the relevant companies to suspend operation immediately after the licensee was arrested by the Police?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): When the companies apply for licence renewal, the Police will consider their individual circumstances ...

(Mr SIN Chung-kai stood up)

MR SIN CHUNG-KAI (in Cantonese): *Can the licence of an intermediary be suspended before it is due for renewal?*

PRESIDENT (in Cantonese): Will the Secretary please answer.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): Under the current mechanism, if considered to be in line with public interest, the authorities can revoke the licence of a money lender. Under the present circumstances, the malpractices of unscrupulous intermediaries often involve frauds, and so on. We must first tackle the criminal elements involved in each case, and then consider the matter from the point of view of public interest and whether there are grounds to believe that they ...

(Mr SIN Chung-kai talked loudly in his seat)

PRESIDENT (in Cantonese): Mr SIN, please stop interrupting the Secretary's reply repeatedly.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): We have already stepped up law enforcement with a view to curbing the unscrupulous intermediaries and collecting evidence, so that the relevant work can be improved further.

PRESIDENT (in Cantonese): This Council has spent almost 24 minutes on this question. Fifth question.

Emergency Closure of Kap Shui Mun Bridge

5. **MR TAM YIU-CHUNG** (in Cantonese): *President, on the night of the 23rd of last month, Kap Shui Mun Bridge connecting Ma Wan and Tsing Chau Tsai Peninsula of Lantau Island was struck by a vessel, triggering the ship impact alarms of the Bridge. As a result, all lanes of Kap Shui Mun Bridge and Tsing Ma Bridge were closed to facilitate inspection by engineering staff. During the closure period, no vehicle could enter or leave Lantau Island and the train services of the MTR Airport Express and Tung Chung Line were also suspended. As land transport to and from Lantau Island was paralysed for nearly two hours, the airport and Lantau Island suddenly became isolated and close to ten thousand travellers were stranded at various stations along the Airport Express. Some members of the public have criticized the Transport Department (TD) for failing to respond expeditiously after the occurrence of the incident and for disseminating information in a confusing manner. They are worried that if a similar incident happens again during the peak period of outbound travel, the impact on the public will be even greater. In this connection, will the Government inform this Council:*

- (1) *given that the Emergency Transport Coordination Centre (the Centre) under TD is responsible for monitoring and handling traffic and public transport incidents 24-hour a day, whether the authorities have reviewed if the Centre disseminated accurate information relating to the aforesaid incident (including information on temporary traffic arrangements) to members of the public promptly after the occurrence of the incident, and how they will improve the arrangements for the provision of temporary relief*

transport services by public transport operators; of the details of the Centre's information dissemination mechanism and why the mechanism failed to perform effectively in the aforesaid incident; and

- (2) *as the Tuen Mun-Chek Lap Kok Link (the Link) currently under construction will be the second trunk road connecting the airport and Lantau Island with other areas, of the authorities' measures to ensure that the Link can be completed on schedule in 2018; and the factors which may affect the completion date?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, our consolidated reply to the main question raised by Mr TAM Yiu-chung is as follows:

The Emergency Transport Coordination Centre (ETCC) of the Transport Department (TD) monitors traffic condition 24-hour a day. Its main task is to liaise and co-ordinate among government departments, public transport operators and relevant organizations on the handling of traffic incidents. It also disseminates the latest traffic information to the public.

On the night of 23 October when Kap Shui Mun Bridge was struck by a vessel, the ETCC had not released the news of the closure of the bridge in the first instance. According to my understanding from the TD, the ETCC had first liaised with all public transport operators and the Airport Authority Hong Kong (AA) at that time for making appropriate remedial arrangements promptly, such as adjusting the service and relieving the crowding of passengers and tourists, and suspending the airport bus service at the termini to avoid aggravating road congestion, and so on.

After the incident, the TD reviews and agrees that the ETCC should have informed the public of the closure of the bridge and the contingency traffic arrangements earlier. Should similar incidents happen in the future, the ETCC will inform the public of the road closure and contact and co-ordinate with public transport operators and the AA at the same time. When making the announcement, the TD will also let the public know that contingency plans have been activated by the Government, including arranging emergency ferries to

provide limited service, and reminding the public to consider adjusting their journey and to keep abreast of the latest information. To further improve the channel of information dissemination, the TD is considering putting in plan a mobile phone application for the dissemination of special traffic news so that the public can get hold of the latest situation directly and immediately.

As regards the provision of emergency alternative transport services on the night of the incident, the TD had taken action in accordance with the established contingency traffic plan. On one hand, the TD requested the Discovery Bay ferry operator to enhance the frequency of services between Central and Discovery Bay which had carried a total of about 4 500 passenger trips. At the same time, the TD had requested the strengthening of the bus feeder service between Discovery Bay and the Airport/Tung Chung. On the other hand, based on the emergency ferry services agreement signed between the TD and the Hong Kong & Kowloon Motor Boats & Tug Boats Association Ltd (MBTA), the TD requested the MBTA to have the first boat arrived within two hours to take passengers pursuant to the agreement. The MBTA later confirmed that they were able to provide at least four sailings (that is, two sailing each time) of emergency ferry services between Tsuen Wan West Pier and Tung Chung Development Pier at 10 pm and 10.30 pm with a total carrying capacity of around 700 passengers. However, since the Lantau Link had re-opened at around 9.40 pm that night, the planned emergency ferry services were not needed. The ETCC had therefore not informed the public of the emergency ferry services arrangements.

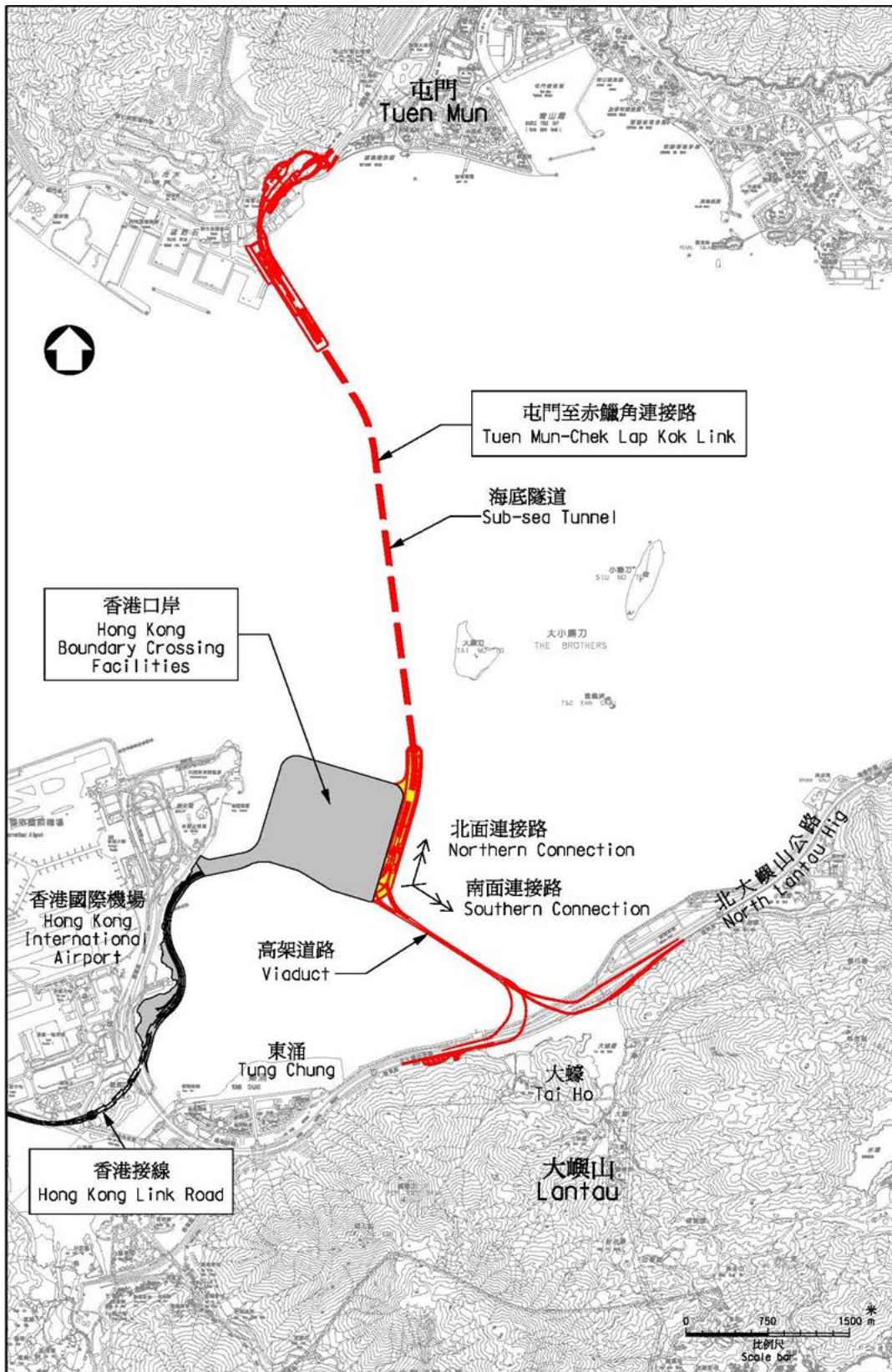
On that night, the ETCC informed the public of the enhanced frequency of Discovery Bay ferry services and the feeder buses only when it had ensured that they were ready. In the same vein, the ETCC also released information to the public only after it had confirmed the details of the service provided by the MBTA. This is to avoid the public receiving incomplete information when the whole set of emergency service was not ready yet, which may create problems. For example, the public would be informed of the service and pier location of emergency ferries but not the departure time and frequency of the service; or the availability of emergency service but not how to connect to various locations on the Lantau Island. In hindsight, early dissemination of information and continuous updating would be a more desirable arrangement as a whole for the public who were already quite anxious.

To comprehensively review the contingency plans in response to the incident, and consider how to prevent similar incidents from happening again in the future, I chaired an inter-departmental meeting on 29 October. The meeting has initially identified four areas for follow-up.

Firstly, it is "Contingency". We will adjust the alarm system so that key departments and organizations, including the Marine Department (MD), TD, Highways Department (HyD), AA and the MTR Corporation Limited, and so on, be notified concurrently, and are aware that when the bridge alarm is triggered, full closure of the bridge would be required for emergency inspection. Secondly, it is "Communication" — to enable the public to learn about emergency incidents and the relevant contingency arrangements more promptly and comprehensively. The TD and the AA will develop a one-stop platform for information dissemination as soon as possible.

Thirdly, it is "Control" to minimize risks of similar hit impact on the bridge. At present, the Lantau Link and Airport Express is the only land links connecting Lantau and other parts of Hong Kong. In case of full closure of land links, the relevant contingency measures have their limitations. For instance, the capacity and speed of sea ferries cannot be compared with that of land transport. Therefore, it is imperative that we prevent similar incidents from happening again. In the light of this incident, the MD will seek to secure resources to strengthen marine patrols around the height restricted area of the bridge.

Lastly, it is about enhancing "external connectivity" between Lantau Island and the Airport Island. Upon commissioning of the Tuen Mun-Chek Lap Kok Link (see Annex) which is now being constructed, it will provide another route to connect Lantau, including the Airport with urban areas. The project is 9 km-long. The completion time of the Southern Connection will tie in with that of the Hong Kong-Zhuhai-Macao Bridge Main Bridge whilst the Northern Connection is targeted for completion in 2018. As the project is massive and complicated, and it involves sub-sea tunnel boring works, it is unavoidable that various challenges and risks will inevitably be encountered. The HyD will closely monitor progress of the project and will endeavour to overcome its technical difficulties.



MR TAM YIU-CHUNG (in Cantonese): *President, I saw on television that, after the alarms of the bridge had been triggered, inspection was carried out with torches by a few persons on a truck-mounted crane. Was this inspection discussed at the inter-departmental meeting chaired by the Secretary on 29 October? Will new technologies be adopted to replace this method? As such an inspection certainly takes a very long time, are there other methods for examining more quickly the hit impact on the bridge?*

Moreover, according to the Secretary, the MD will seek to secure resources to strengthen marine patrols. However, can we install some facilities on the bridge so that alarms will be triggered immediately if the height of a vessel is found to have exceeded the height limit of the bridge. I believe the issue can be resolved with the use of modern technologies. Have the authorities considered this option? In addition, SkyPier is currently a closed pier; can SkyPier be temporarily opened up if such situations occur? Have the authorities considered that at the meeting concerned?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the three points just made by Mr TAM have actually been discussed at the inter-departmental meeting on 29 October. Concerning the inspection of the bridge, if there is a red alert, as what occurred on the night of 23 October, indicating a scenario of vessel collision or optical fibre being damaged, the departments concerned, including the HyD, have to figure out the problems very carefully. If there are more serious problems, there will be safety concerns, including railway safety.

We have instructed the HyD to consider if there are faster methods to carry out inspection in the light of the experience learned in this incident. Regarding this incident, the HyD meticulously inspected every part of the bridge with the use of suspended working platforms.

The second point is about marine patrols by the MD. Although it is mentioned in my main reply that the MD will seek to secure resources, the MD has, in response to this incident, deployed resources to increase marine patrol vessels. The number of patrol vessels has increased from one to three. Of course, additional resources must be deployed to cope with the related work in the long run.

Mr TAM has also asked if some detection alarm systems can be installed on the fairway in the future so that advance notification may be given to the persons concerned if the height of the vessels may exceed the height limit of the bridge. In fact, the MD has commissioned a consultancy study on the installation of early warning systems at the Tsing Ma Bridge fairway, that is, the Ma Wan fairway, targeting at large vessels such as ocean-going vessels. The consultancy study is now underway. The MD will also ask the consultant to study the feasibility of making similar arrangements for the Kap Shui Mun Bridge. But ...

(Mr LEUNG Kwok-hung stood up)

PRESIDENT (in Cantonese): Secretary, please stop for a while. Mr LEUNG Kwok-hung, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): *Testing ground for the prisoner's dilemma game. A quorum is not present.*

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

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

PRESIDENT (in Cantonese): Secretary, please continue to reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I continue to speak. I have just mentioned that the MD has commissioned a consultancy study on the installation of early warning systems at the Tsing Ma Bridge fairway (that is, the Ma Wan fairway) so that it will be safer for large vessels sailing the Tsing Ma Bridge fairway. This involves the installation of the relevant equipment at faraway locations at the northern and southern ends of the fairway. We will also take this opportunity to ask the consultant to study if similar detection and alert systems can be installed at the

Kap Shui Mun Bridge. However, it is preliminarily estimated that this is highly difficult because there is only a short distance of 450 m between the boundary of the height restriction area at northern Kap Shui Mun Bridge and the Kap Shui Mun Bridge, and a vessel will reach the bottom of the bridge in only two minutes; thus, there may not be enough time for a vessel to brake itself to stop. In any case, we will take this opportunity to examine the situation. At present, we mainly rely upon marine patrol vessels to ensure that only compliant vessels are permitted to sail under the Kap Shui Mun Bridge.

Last but not least, SkyPier is currently located in the Restricted Area of the Hong Kong International Airport. It provides convenient and speedy ferry services for air-to-sea/sea-to-air transit passengers travelling between Hong Kong and the Pearl River Delta. If the contingency plan has to be activated because of an emergency, SkyPier can be designated as a non-restricted area and temporarily used as a pier for the provision of ferry services to the urban areas.

MR YIU SI-WING (in Cantonese): *President, the incident exposed the authorities' lack of contingency measures. To avoid making the same mistakes, has the Government conducted studies to collect statistics on the number of people travelling from urban areas to the airport per hour during different time periods and compare such number with the capacities of presently deployable marine traffic and the piers near the airport, so as to ascertain whether these measures can cope with the anticipated passenger flow in case of recurrence of such a bridge closure incident?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I do not have the figures broken down by time period as requested by Mr YIU, and we will see if the AA has the relevant figures. In any case, there are currently a large number of travellers using the airport. If a bridge closure incident really occurs and the bridge is closed for a longer time, the operation of the airport and flights will certainly be affected. Therefore, the AA and the TD have contingency plans to deal with the situation where the land links between the urban areas and Lantau, including the land transport to the Airport Island (that is, the existing Lantau Link) are fully closed. At present, we can only make arrangements for emergency ferry services, but as I said in my main reply, the capacity and speed of sea ferries cannot be compared with that of land transport. Insofar as contingency arrangements are concerned, it is most important to

prevent such things from happening again. Thus, I have just said that we must complete the second route to connect Lantau, that is, the Tuen Mun-Chek Lap Kok Link mentioned just now.

MR FRANKIE YICK (in Cantonese): *On the supplementary question just raised by Mr TAM Yiu-chung, the Secretary has answered part of it. I know the MD is conducting a preliminary study on the installation of an early warning system for detecting vessel height. The study is not only targeting local vessels but also ocean-going vessels. As ocean-going vessels have become increasingly large, whether they will come to Hong Kong depends on whether or not they can sail under the Tsing Ma Bridge. We have recently had discussions with the departments concerned, hoping to implement the early warning systems as soon as possible because ocean-going vessels will take this into account in deciding whether they would choose to come to Hong Kong, and the decision will also affect Hong Kong's harbour and cargo transport. I hope the Secretary would follow up the matter and come up with a concrete timetable as soon as possible.*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the Bureau also considers it a matter of urgency. As Mr Frankie YICK said earlier, this involves the safety of ocean-going vessels sailing under the Tsing Ma Bridge. Currently, ocean-going vessels entering Hong Kong waters are provided with navigator services, with the consultancy study conducted by the MD, we hope that more laser detection alarm systems could be installed to improve safety.

MR ALBERT CHAN (in Cantonese): *President, with regard to bridge collision accidents, there was an accident in the 90s in which a vessel struck the Tsing Yi South Bridge. In the most recent incident, a vessel struck the Kap Shui Mun Bridge. Over the years, members of the shipping sector have been proposing to the Government that fairway changes are necessary, especially the fairways for ocean-going vessels and other vessels entering Hong Kong from South China. In fact, these vessels do not need to sail under the Kap Shui Mun Bridge or the Tsing Ma Bridge or along the Rambler Channel and they can directly sail from south Lantau to the areas around Tsing Yi or Kwai Chung.*

Will the Government comprehensively consider and study such proposals, for the sake of conservation as well? If the vessels sail along the southern side of Tuen Mun, this can more effectively protect the lives of dolphins, solve the problems of noise pollution and air pollution, and reduce disturbance to the residents of Tuen Mun, Tsuen Wan and Kwai Tsing. Will the Government consider effecting fairway changes to safeguard people's health and safety?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the traffic along the fairways in Hong Kong is very busy indeed. Mr CHAN suggested us to improve marine traffic safety and obtain better conservation results by making adjustments to the management of fairways. We will ask the MD to look into the matter.

On the night of 23 October, the barge towed by a tug boat sailed under the Kap Shui Mun Bridge. In fact, such an accident should not have happened under the well-tested management system because local vessels clearly know that the height restriction of the Kap Shui Mun Bridge is 41 m. If the hull of a vessel is quite tall, it should choose to sail along the Tsing Ma fairway, even though there are more ocean-going vessels sailing along the Tsing Ma fairway.

MISS ALICE MAK (in Cantonese): *President, accidents are unexpected and we do not know ... As the Secretary has just said, vessels normally will not sail along the fairway but a vessel was actually sailing along the fairway and struck the bridge. After this accident ... I think people are most worried about the contingency measures that will be adopted in case similar accidents happen. Although the Secretary has mentioned in his main reply that a meeting has been held and there are some contingency measures, I do not think his reply is concrete enough.*

Will the Bureau commit itself to a time pledge? That is, in case the bridge needs to be closed, the Bureau will deploy vessels or notify the public of the public transport arrangements within a certain time limit. Will the Bureau work out these contingency indicators to let people feel at ease?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I have mentioned in my main reply that if such incidents happen in future — we certainly do not want such incidents to recur and we will try our best to prevent that — but if similar incidents unfortunately recur, we will take synchronized measures in the first instance. On the one hand, the TD will co-ordinate the public transport operators and contact the MBTA. On the other hand, we will, in parallel, inform the public that the bridge will be closed and contingency plans have been activated. The general operation of such plans will also be publicized.

Specifically, the MBTA will make arrangements for emergency ferry services but there will inevitably be a time gap. According to the agreement, the MBTA will not set aside vacant vessels for use in emergency, and it will only deploy vessels after an incident happens. So, it takes some time to make the arrangements. At present, the agreement specifies that the first sailing can start within two hours after the incident happened. We will examine if there is room for adjustment.

Anyway, as I said in reply to other Members' questions earlier, if the land link (that is, the Lantau Link) is fully closed, the capacity of temporary sea ferry services is unable to cope with the normal road traffic demand; thus, there is a pressing need for the construction of the second route.

MR MICHAEL TIEN (in Cantonese): *President, I would like to follow up on three things. The Secretary has just said that after a vessel has crossed the boundary of the height restriction area in northern Kap Shui Mun Bridge, it takes only two minutes for the vessel to reach the bridge. I have doubts about this figure. Is the Secretary referring to the speed of an ordinary vessel or that particular barge? As we all know, a barge sails very slowly. If it took more than two minutes for that barge to enter the relevant waters and strike the Kap Shui Mun Bridge, why had patrol ships or patrol boats not been sent there to stop the barge from striking the bridge? This is the first point.*

Second, other colleagues have just mentioned ...

PRESIDENT (in Cantonese): Mr TIEN, we have almost reached the time limit for this question, please ask one supplementary question for the Secretary to answer.

MR MICHAEL TIEN (in Cantonese): *One supplementary question? It is simple. The Tuen Mun-Chek Lap Kok Link will be opened to traffic three years later. If another accident happens, all vehicles will travel to Lantau via Tuen Mun, there will be serious traffic congestion and the passenger capacity of the West Rail will also be saturated.*

We have proposed the construction of the fifth cross-harbour railway, from Tuen Mun via Lantau Island, Sunny Bay or Kau Yi Chau to the urban areas. The Secretary also knows that this cross-harbour railway is very important in the future, and it can solve the problem of having only one land link to Lantau at present. Regarding this proposal, does the Secretary have a specific timetable?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, there is currently only one land link to Lantau (including the Airport Island), that is, the Lantau Link. Upon completion of the Tuen Mun-Chek Lap Kok Link, there will be a second link. Even though we know that an additional link will be available, we will not loosen our grip on the situation. We will spare no effort to ensure that vessel collision accidents similar to the incident that happened on the night of 23 October will not recur.

In the long run, in response to the development of Lantau, including the central waters reclamation or the development of an East Lantau Metropolis, if these plans are really implemented, we have to consider the related ancillary public transport facilities, possibly including the ancillary railway, which will also be considered in the context of the entire large-scale development.

MR MICHAEL TIEN (in Cantonese): *The Secretary has not answered my supplementary question. My supplementary question ...*

PRESIDENT (in Cantonese): Mr TIEN, do not put your microphone too close to your mouth. It is difficult to hear you clearly.

MR MICHAEL TIEN (in Cantonese): *Sorry, President, you are right. The Secretary has not answered my supplementary question.*

PRESIDENT (in Cantonese): We have reached the time limit for this question, please briefly repeat the part of the question that you considered that the Secretary has not answered.

MR MICHAEL TIEN (in Cantonese): *Alright. It is very simple. The Secretary has mentioned that if reclamation works do take place at Kau Yi Chau, the authorities will have to study the provision of ancillary transport facilities. My supplementary question is: As there is only one railway in Lantau at present, which is not enough in the long run, when will the Bureau construct the second railway? Is there a timetable? Does the Secretary disagree that Kau Yi Chau and Lantau need the second railway?*

PRESIDENT (in Cantonese): Mr TIEN, please be seated. Secretary, can you provide a timetable for the construction of the second railway?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, my answer is the same. If we really consider the construction of the second railway, it must tie in with the overall development of Lantau in the future, including the development of East Lantau.

PRESIDENT (in Cantonese): Last oral question.

Promoting the Concept of "One Country, Two Systems"

6. **MR WONG TING-KWONG** (in Cantonese): *President, some people have relayed to me that radical forces have recently emerged in Hong Kong disseminating views advocating the independence of Hong Kong and instigating anti-parallel trading protests. Such views and actions have torn Hong Kong's community apart, deepened the conflicts between the people on the Mainland and in Hong Kong, and caused the Central Authorities to worry about Hong Kong's future. They also think that although it has been 25 years since the promulgation of the Basic Law, the Government's efforts in promoting the concept of "one country, two systems" of the Basic Law have so far been*

over-emphasizing the rights of Hong Kong people under the "two systems" while neglecting their obligations under the "one country". In this connection, will the Government inform this Council:

- (1) whether it has reviewed the effectiveness of its past efforts in promoting the Basic Law; if it has, of the details; if not, the reasons for that; whether it has studied the causes for the recent emergence of radical forces in Hong Kong and the impacts of such forces on the youth;*
- (2) as there are views that there is inadequate understanding among members of the public about the contents of the Basic Law and the process by which it was drafted, of the means that the authorities will use to deepen the understanding of the public, particularly the youth, in this regard, including the understanding that the "one country" and the "two systems" in the "one country, two systems" concept are equally important; and*
- (3) as the Chief Executive said last month that "all people in Hong Kong, especially politicians and young people, need to gain a comprehensive understanding of the country's development from different perspectives, both for the good of the country and for their own careers", and that the Government was ready to facilitate communication between all sectors of Hong Kong and the Central Authorities as well as local governments of various provinces and municipalities on the Mainland, of the Government's plans to facilitate such communication so as to enhance the understanding of the Motherland among all sectors in Hong Kong?*

(Mr Albert CHAN stood up)

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

MR ALBERT CHAN (in Cantonese): *President, those "radical" Members are not here right now. Please do a headcount and summon the "radical" Members back.*

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

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

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, our reply to Mr WONG Ting-kwong's question, after consulting the Education Bureau and Home Affairs Bureau, is as follows:

(1) and (2)

The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (the Basic Law) is the constitutional document for the Hong Kong Special Administrative Region (HKSAR). In accordance with the Constitution of the People's Republic of China, the National People's Congress enacted the Basic Law, prescribing the systems to be practised in the HKSAR, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong, that is, "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy".

The Basic Law was promulgated on 4 April 1990 and formally implemented on 1 July 1997. Over the years, the SAR Government has been actively conducting Basic Law promotion and education through various approaches and channels in an easily understandable manner. The SAR Government established in January 1998 a Basic Law Promotion Steering Committee (the Steering Committee) comprising both official and non-official members and chaired by the Chief Secretary for Administration. The Steering Committee provides the necessary steer on the overall strategy and key aspects for promoting the Basic Law, and co-ordinates the efforts of

government departments and various stakeholders in the community as well as community organizations in taking forward Basic Law promotion activities.

Five working groups have been set up under the Steering Committee, namely the Working Group on Local Community, the Working Group on Teachers and Students, the Working Group on Civil Servants, the Working Group on Industrial, Commercial and Professional Sectors and the Working Group on Overseas Community. The five working groups discuss and suggest detailed proposals for the five specific sectors.

The SAR Government also conducts territory-wide promotion activities for the general public, including the use of electronic media such as Announcements in the Public Interest on television and radio, the Internet and mobile applications; organizing exhibitions (for example, roving exhibitions in shopping malls and a mobile resource centre); and co-organizing large-scale activities with community organizations (for example, seminars, talks and debate competitions).

The SAR Government will evaluate in an appropriate manner the understanding of the Basic Law by the public and the effectiveness of the various promotional activities. For example, we will record the hit rate of the Basic Law website and the number of downloads of the mobile application. Regarding promotion activities held at the district level, such as roving exhibitions and the mobile resource centre, we will record the public's participation rate and responses. We will also collect feedback from teachers and students on the effectiveness of the mobile resource centre promotion in school visits and review the reports on such activities. At the same time, our colleagues will conduct on-site observations and check on the activities, and prepare reports to evaluate the effectiveness of the various community activities under the Basic Law Promotion Sponsorship Scheme. The SAR Government trusts that the public has attained a basic understanding of the Basic Law through different channels and various types of promotion activities.

The year 2015 marks the 25th anniversary of the promulgation of the Basic Law. Apart from continuing to foster public understanding of the main content of the Basic Law by making use of topics from daily lives, the SAR Government has also organized large-scale activities, including a seminar and a thematic exhibition, so that the public can have an in-depth understanding of "one country, two systems" and the Basic Law.

Moreover, individual bureaux/departments have also organized activities for their target groups. For example, the Education Bureau has produced Basic Law visual learning packages for upper primary and junior secondary students and organize territory-wide inter-school quiz competitions; the Civil Service Bureau has organized thematic talks on the Basic Law; the Trade and Industry Department has organized thematic seminars and a souvenir design competition on the Basic Law; and the Information Services Department has produced a Basic Law promotion video.

The Community Participation Scheme 2015-16 and the Co-operation Scheme with District Councils 2015-16 organized by the Committee on the Promotion of Civic Education under the Home Affairs Bureau, as well as the Basic Law Promotion Sponsorship Scheme under the Constitutional and Mainland Affairs Bureau, have also encouraged community organizations to stage activities at the district level to commemorate the 25th anniversary of the promulgation of the Basic Law. The Education Bureau has also subsidized educational groups and tertiary institutions to carry out Basic Law promotion activities through the Quality Education Fund and the Basic Law Promotion Funding Scheme for Tertiary Institutions.

With regard to the "radical forces" mentioned by Mr WONG Ting-kwong in his question, I would like to reiterate two points. Firstly, Hong Kong is a place governed by the rule of law. Any person who wishes to express his/her views, irrespective of his/her age or background, must abide by the law. In fact, Article 42 under Chapter III of the Basic Law, which is about "Fundamental Rights and Duties of the Residents", states clearly that "Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region". Secondly, the majority of Hong Kong

citizens attach great importance to rational communication and inclusiveness, and they do not welcome radical behaviours in Hong Kong.

- (3) According to the information provided by the Education Bureau, the Bureau has all along been organizing Mainland exchange programmes to complement students' learning. It continues to adopt a variety of strategies and increases the annual quota to subsidize students to join Mainland exchange programmes. It will also continue to organize Mainland exchange programmes of various themes with visits to different provinces and cities to enable more primary and secondary students to have a deeper understanding of our country's development in terms of history, culture, economics, technology and infrastructure, and so on, through first-hand experience.

According to the information provided by the Home Affairs Bureau, the Bureau and the Commission on Youth (CoY) have been subsidizing Mainland exchange activities organized by community groups and non-governmental organizations. The Home Affairs Bureau and the CoY have launched the "Funding Scheme for Youth Internship in the Mainland" since 2014 to subsidize Mainland internship programmes for youngsters organized by community organizations. Through these internship programmes, youngsters will experience first-hand the actual situation of working in the Mainland, enhance their understanding of the job market and development opportunities in the Mainland, and acquire work experience which gives them the competitive edge in job hunting.

The Home Affairs Bureau organizes the Service Corps programme which provides opportunities for Hong Kong youngsters to engage in voluntary services in underprivileged areas in the Mainland for six months or longer. This year, the Home Affairs Bureau has launched a new programme called the Guangdong-Hong Kong Youth Volunteer Service Programme which allows Hong Kong and Guangdong tertiary students to participate in voluntary services together in villages and towns in four cities in Guangdong Province during their summer holiday so as to enhance exchanges and mutual understanding.

President, the SAR Government will continue to promote the Basic Law through various approaches and channels. We are also very willing to listen to the views and proposals of Honourable Members in this aspect.

MR WONG TING-KWONG (in Cantonese): *President, the Government has indicated in the main reply that a number of departments have arranged for Hong Kong's young people to participate in Mainland exchange activities, but in my view, such activities are not systematic and their duration is very short.*

The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has earlier proposed that a training base be established in Guangdong to help Hong Kong's young people understand the country's state of affairs. Will the SAR Government actively pursue with the Mainland Government the DAB's proposal for allowing Hong Kong's young people to go to the Mainland for exchanges, so as to scale up such activities and make them more comprehensive?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, regarding the proposal mentioned by Mr WONG Ting-kwong, I have not had a chance to examine its specific details. Perhaps my colleagues in the relevant bureaux have yet to receive the proposal.

Admittedly, my Policy Bureau has a co-ordinating role to play in the co-operation between Guangdong and Hong Kong, or the bilateral relations between Hong Kong and the Mainland. I am very willing to work with my colleagues in other Policy Bureaux to follow up and study the proposal mentioned by Mr WONG just now.

In conducting a specific study on the proposal, I think it is most important for us to know the nature and contents of this so-called training project, which age groups of young people this project aims to attract, and the duration of the entire project, because sometimes it may be necessary to accommodate young people's school timetables, and so on. In this connection, as and when the several specific details that I have just mentioned become more developed, my colleagues in the relevant Policy Bureaux and I will be more than happy to take appropriate follow-up actions under the co-operation mechanism established between us and the Guangdong Provincial Government.

MR MARTIN LIAO (in Cantonese): *President, in relation to the promotion of the Basic Law, the Secretary has said in the main reply that "our colleagues will conduct on-site observations and check on the activities, and prepare reports to evaluate the effectiveness of the various community activities under the Basic Law Promotion Sponsorship Scheme". May I know, according to the Bureau's evaluation, how effective the Basic Law promotion activities have been since our return to China in 1997? Let me give the Secretary four options: first, remarkably effective; second, fairly effective; third, barely effective; and fourth, not effective. May I ask the Secretary ...*

(Mr LEUNG Kwok-hung stood up)

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

MR LEUNG KWOK-HUNG (in Cantonese): *The quorum for our meeting is stipulated in the Basic Law. Let me promote this. Members, remember to read the Basic Law.*

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

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

PRESIDENT (in Cantonese): Mr Martin LIAO, please repeat the last part of the supplementary question raised by you just now.

MR MARTIN LIAO (in Cantonese): *Yes, President. Members certainly have the right to request a headcount. But then again, Members also have the right and obligation to raise questions with the Government. I hope that from now on, Honourable colleagues will respect any Member who is asking a question, refrain from interrupting, and wait until the question is finished before requesting a headcount.*

I would like to repeat my supplementary question, President, which is about the effectiveness of Basic Law promotion activities since 1997. In respect of the four options given by me, I wish to ask the Bureau whether it, after evaluating the outcome of such activities, considers them "remarkably effective", "fairly effective", "barely effective" or "not effective". May I ask the Secretary which option he will choose?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): I thank Mr Martin LIAO for his supplementary question. I think if I am just asked to pick one of the four options, it may not be a proper evaluation of our efforts over the past decade or so. Perhaps let me talk about a few aspects of our efforts.

The effectiveness of the Basic Law promotion activities organized by us is actually not bad in terms of participation rates. Let me cite an example. From April to May this year, the Constitutional and Mainland Affairs Bureau and the Leisure and Cultural Services Department, together with the Steering Committee, held the Exhibition of the 25th Anniversary of the Promulgation of the Basic Law, which covered a wide range of information on, among other things, the drafting and promulgation of the Basic Law, as well as relevant exhibits and photographs of historical value. The exhibition was visited by 83 000 members of the public, including more than 5 700 primary and secondary students from 69 schools. This is one example.

As regards other Basic Law promotion activities of various scales, my colleagues in the Constitutional and Mainland Affairs Bureau and the relevant Policy Bureaux would ask the participants, through questionnaires, whether they found their participation in those activities conducive to their understanding the Basic Law. According to the statistics collected, overall, nearly 80% of the participants found those activities positively helpful to them in understanding the Basic Law. Also, we would engage professional bodies to conduct relatively general opinion surveys on an irregular basis to see how many of the respondents considered that they had an understanding, or a basic understanding, of the Basic Law. The results of the latest survey show that about 80% of the respondents considered that they had either "a little understanding" or "an understanding" of the Basic Law, with less than 20% of the respondents saying that they had "no understanding" of the Basic Law.

This notwithstanding, I believe that we will keep strengthening the whole Basic Law promotion strategy, and we will promote the Basic Law more widely. The Steering Committee chaired by the Chief Secretary for Administration will also focus on the promotion of the Basic Law following the 25th anniversary of its promulgation, with a view to making the strategy more effective. This issue is being studied and discussed at the Steering Committee level. It is believed that the relevant Policy Bureaux will come up with some innovative promotion approaches very soon.

Lastly, I wish to point out that the Basic Law includes a preamble, nine chapters consisting of a total of 160 articles, and three annexes. Some people may find it too dry to read from cover to cover. When it comes to people's understanding of specific provisions of the Basic Law in the past decade or so, my observation is that it was often a current event that caused certain provisions of the Basic Law to attract the particular attention of the community and receive exceptionally wide media coverage. Examples are the discussions on Article 24 of the Basic Law 10-odd years ago; the discussions on Article 23 of the Basic Law 11 or 12 years ago; and the discussions on Article 45, Article 68 and the related provisions of the Basic Law, as well as its Annex I and Annex II, in the three constitutional reform exercises over the past decade. All these discussions enabled the public to have a better understanding of the Basic Law. Though our constitutional reform package was not passed in this Council half a year ago, it is our observation that during the consultation in the previous two years, the general public did acquire a better understanding of the Basic Law and, in particular, the constitutional role and powers of the Central Authorities in the development of our political system. So, very often, certain current events or issues may be indirectly helpful to the general public in understanding the Basic Law.

Of course, there are also times when people may have to go through some rather painful experiences to understand certain provisions. Mr Martin LIAO has just alluded to such a situation. For instance, the public has recently gained an understanding of Article 75 of the Basic Law, that is, the provision stipulating that the quorum for the meeting of the Legislative Council shall be not less than one half of all its Members. I believe that the effect of this provision has not only made a profound impression on everyone here this morning, including me, but has also been imprinted deeply on the minds of the people watching these proceedings on television. That said, this may be another way to understand the Basic Law.

MS EMILY LAU (in Cantonese): *President, what has made the most profound impression on Hong Kong people is that the SAR Government and the Central Government have not delivered on their promises to grant Hong Kong "one country, two systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy". The plan for universal suffrage has been messed up, and the Central Government has kept intervening in Hong Kong affairs. This is why those radical actions tearing the community apart have emerged, as mentioned by Mr WONG Ting-kwong. If the authorities keep publicizing what the Secretary talked about just now, will they really be able to tackle the critical problems facing Hong Kong?*

So my supplementary question is: Have the authorities, as suggested by the President too, conducted a review on what serious problems have arisen from the implementation of "one country, two systems", and have they told the Central Government that the policies implemented by it and the LEUNG Chun-ying clique have sowed serious dissension in the community of Hong Kong, leading to so many clashes and conflicts?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, as I have said time and again in response to Honourable Members' questions in this Council, since our return to China, the leaders of the Central Authorities, the Central Government and the SAR Government have been enforcing and implementing the provisions of the Basic Law in strict accordance with the Basic Law and the principles of "one country, two systems", "Hong Kong people administering Hong Kong" and "a high degree of autonomy". Admittedly, as mentioned by Ms LAU just now, the implementation of various policies in the past ... Hong Kong is a pluralistic society where different people may have different opinions, and young people may have both expectations and grievances about many issues faced by them. Of course, the focus of our discussion today is on the promotion of the Basic Law, but to address different opinions and even disputes or conflicts in the community, the best approach is to look squarely at the relevant policies or incidents *per se*, and identify what is most beneficial to the overall and long-term interests of the community.

For instance, according to my contact with young people over the years, one of the issues that they are relatively concerned about — I am not saying that they are most concerned about it — is home acquisition. As we all know, the Chief Executive attaches particular importance to issues relating to housing and land. In this regard, I am very glad to note that in the recent policy address

consultation exercise, the Democratic Party has indicated its willingness to explore the idea of changing the use of Green Belt sites, so as to release more land for housing construction. I think this is a positive stance.

I believe that if we can have a cross-party platform for discussions on specific policy areas, it will be positively and substantively helpful in addressing certain concerns or grievances in the community.

MS EMILY LAU (in Cantonese): *My supplementary question is: Have the authorities conducted a review on the fact that the Central Government's policies have sowed dissension in the community of Hong Kong, and during this process, what has the SAR Government done to tackle this problem?*

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

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): The basic policies of the Central Authorities regarding the SAR are clearly stipulated in the Basic Law. The prime duty of the SAR Government is to implement the various basic policies in accordance with the provisions of the Basic Law. As I said just now, this process requires cross-party discussions, in which all parties should seek common ground while accommodating differences.

Take, for example, constitutional reform, which has been touched upon by Ms LAU. In the past, we hoped to do our utmost to accomplish our tasks in this regard, and we had both successful and unsuccessful experiences in carrying out the three constitutional reform exercises. We have all learned our lessons. As I have mentioned in the main reply, I hope that from now on, everyone will commit themselves to making a success of "one country, two systems" through rational discussions in a spirit of inclusiveness.

MR CHRISTOPHER CHUNG (in Cantonese): *President, when answering Mr Martin LIAO's question just now, the Secretary seemed to be very satisfied with the results of the Basic Law promotion work undertaken in the past. But then, if he is so satisfied with such results, can he tell this Council why recently there have been so many people holding aloft the "Dragon and Lion Flag", still feeling so nostalgic for the colonial symbol? In view of the phenomenon of some*

people booing the national anthem, will the existing chasm caused by such a separatist ideology grow wider and wider? As the Secretary indicated just now that he was very satisfied with the Basic Law promotion work, how will he explain this phenomenon?

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): First of all, I wish to draw Mr Christopher CHUNG's attention to the fact that I did not say that I was very satisfied with the Basic Law promotion work; I only cited some examples and shared with Honourable Members those data obtained by us from objective surveys. And, as I have said, depending on the needs arising from new circumstances or new developments, the Steering Committee chaired by the Chief Secretary for Administration will specifically make new strategic adjustments aimed at further promoting the Basic Law.

As for the behaviour of a minority of people mentioned by Mr Christopher CHUNG just now, I told the media about two months ago that according to my observation, there was only a tiny minority of people in Hong Kong engaging in such behaviour. They do not represent the mainstream practice or opinion of the public. So, personally, I think we should make an objective judgment based on the actual situation.

As to whether the behaviour of this tiny minority of people will sometimes give the public the impression that such behaviour or conduct tends to spread, this certainly warrants our attention, but we should also take an objective view of the facts. Even if it only involves a tiny minority of people, we should still look at the facts. As I have mentioned in the main reply, while different people in Hong Kong have different views and different opinions, it is most important that we must act in accordance with the law.

I have also specifically referred to Chapter III of the Basic Law, which is about the fundamental rights and duties of the residents of Hong Kong. I specially quoted the only and the most important article on obligation therein, which states that Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws of Hong Kong. In the past, perhaps not many people attached particular importance to this article, but as I see it, this article of the Basic Law is particularly important at this point in time.

PRESIDENT (in Cantonese): Time is up for this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Refund of Air Passenger Departure Tax**

7. **DR CHIANG LAI-WAN** (in Chinese): *President, under the Air Passenger Departure Tax Ordinance (Cap. 140), every passenger aged 12 years or above who departs from Hong Kong by aircraft shall pay to the operator of the aircraft (i.e. the airliner) an air passenger departure tax (APDT) of \$120, and the operator shall pay the tax collected to the Director of Accounting Services. The Ordinance provides that APDT paid by a passenger who has not departed from Hong Kong by aircraft shall be refunded by the operator (tax refund). Survey findings recently released by the Consumer Council reveal that quite a number of airliners have engaged in a number of trade malpractices: failure to take the initiative to make such tax refunds to passengers who did not depart from the territory by aircraft, failure to show on the relevant receipts a breakdown of the APDT charged, setting time limits for APDT refund applications, and charging passengers handling fees for the tax refunds sought. In this connection, will the Government inform this Council:*

- (1) *of the purpose of the authorities' levy of APDT and the uses of the tax revenue collected; of the total amount of APDT received by the Treasury in the past three years;*
- (2) *whether it has compiled statistics on the number of passengers who paid APDT but did not depart from the territory in the past three years, and the total amount of such tax involved; among them, of (i) the number of passengers who did not apply for tax refunds and the total amount of such tax involved, and (ii) the number of passengers who applied for tax refunds and were charged handling fees by the airliners, and the total amount of handling fees involved; if it has, of the details; if not, the reasons for that; and*
- (3) *whether it will review the aforesaid Ordinance and the relevant requirements to provide for the tax refund arrangements, including (i) the requirement that airliners have to take the initiative to make tax refunds to passengers who have not departed from Hong Kong by aircraft, (ii) the requirement that airliners must not charge those passengers any fees when refunding tax to them, and (iii) the penalties on airliners for non-compliance with the requirements; if it will, of the details; if not, the reasons for that?*

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

- (1) Air Passenger Departure Tax (APDT) is one of the revenue sources of the Government. Similar to other tax items, the revenue from APDT would be credited to the General Revenue of the Government to meet its expenditure in various areas.

The amount of APDT collected by the Civil Aviation Department (CAD) in the past three years is as follows:

<i>Financial Year</i>	<i>APDT (\$ million)</i>
2012-2013	2,029
2013-2014	2,244
2014-2015	2,347

- (2) As provided under section 4 of the Air Passenger Departure Tax Ordinance (the Ordinance) (Cap. 140), a passenger liable to pay the tax shall make payment to the operator of the aircraft on which the passenger intends to depart from Hong Kong and the operator shall collect that tax and pay it to the Director of Accounting Services under section 7 of the Ordinance. As required under section 6 of the Ordinance, the operator shall furnish returns to the Director-General of Civil Aviation (the Director), in such form and at such intervals as the Director may specify, giving details of passengers and aircraft departures and such other information relating to the tax or the collection of the tax as the Director may require. The operator shall also maintain, in accordance with section 5 of the Ordinance, proper records of passengers embarking on aircraft under the control of the operator and of the tax paid to the operator. Generally speaking, the term "operator" in the Ordinance refers to airlines.

Currently, APDT is collected by airlines upon selling of air tickets. There is a mechanism in place under the agreements between the CAD and the operators to check details of passengers and aircraft departures, so as to protect the Government's revenue from APDT. Under the mechanism, airlines carrying departing passengers would submit monthly APDT returns to the CAD and deposit the APDT revenue in a designated bank account. The CAD will check all APDT returns submitted by the airlines, so as to verify whether the

returns tally with the CAD's flight records, whether the calculations in the APDT returns are in order and whether the amounts of APDT revenue deposited in the designated bank account by the airlines tally with the amounts indicated on the APDT returns. Furthermore, the CAD will conduct random checks on the airlines' passenger lists to ensure that they are consistent with the information reported in the APDT returns.

Moreover, as provided under section 14(1) of the Ordinance, the tax paid to an operator by a passenger who does not depart by air from Hong Kong on the occasion in respect of which he has paid the tax, shall be refunded by the operator. The CAD has all along been reminding the airlines that they are required to make full refund of APDT to the passengers under the above circumstances, and that they are not allowed to impose any charge for the refund of APDT. At present, the CAD does not keep record on the number of passengers who have paid APDT but do not depart from the territory.

- (3) The law has set out clearly the requirement for operators to collect APDT and make refund. It is an offence for any person who authorized or permits a passenger liable to pay the tax to embark on an aircraft, unless the passenger has previously paid the tax. It is also an offence for an operator who fails to maintain proper records or furnish returns giving details of passengers and aircraft departures.

In the light of the recent report and recommendations made by the Consumer Council on airlines' refund arrangements, the CAD undertakes to put in place a mechanism to require airlines to furnish the relevant information to the Department, so that it can strengthen the monitoring of whether airlines have made refund of APDT to the passengers concerned. The CAD would also step up the monitoring of any charging of fee (which is not allowed) for the refund of APDT. The CAD has already issued letters to the Board of Airline Representatives in Hong Kong and individual airlines which are not members of the Board, reminding them of the statutory requirements about APDT refund (including the requirement for making full refund of APDT to passengers, without any charge). The CAD will keep contact with the trade as always, and follow up the Consumer Council's recommendations.

- (2) among the elderly persons who used the service vouchers in the first and second years of the Pilot Scheme Phase I, of the respective numbers of such persons who belonged to (i) dementia cases and (ii) general cases (set out in Table 2);

Table 2

	(i)	(ii)	Total number
First year			
Second year			

- (3) as the services under the Pilot Scheme have been delivered in the single mode (i.e. day care centre (part-time)) and the mixed mode (i.e. day care centre (part-time) and home care services), in respect of the elderly persons who used these two modes of services during the first and second years of the Pilot Scheme Phase I, (i) the respective numbers of them, (ii) the respective average numbers of days for which they used the relevant services, and (iii) the respective numbers of persons among them who withdrew from the Pilot Scheme (set out in Table 3);

Table 3

	Used services in the single mode			Used services in the mixed mode			Total number
	(i)	(ii)	(iii)	(i)	(ii)	(iii)	
First year							
Second year							

- (4) of a breakdown, by reason of withdrawal, of the number of elderly persons who withdrew from the Pilot Scheme as mentioned in (3) above;
- (5) as the report of the mid-term evaluation on the Pilot Scheme has indicated that the reasons for elderly persons' withdrawal included the high prices charged for the services and additional services, and given that as at 30 April 2015, among the elderly persons who used the service vouchers, 69% needed to pay only the first level of the co-payment amount (i.e. they came from families with the lowest income and 210 of them, i.e. 17%, were recipients of the Comprehensive Social Security Assistance), whether the Government

will consider abolishing the arrangements whereby the elderly persons are subject to co-payments and the means test; if it will, of the details; if not, the reasons for that;

- (6) *given that the report has indicated that as at 10 October 2014, among the 184 elderly persons who withdrew from the Pilot Scheme, 130 of them withdrew due to "no suitable services packages" (109 of them with the specific reason for withdrawal being "unwilling to receive centre-based care service"), whether the authorities have reviewed if the scope of services under the Pilot Scheme can meet the needs of those elderly persons with impairment at moderate level; when launching the Pilot Scheme Phase II, whether they will consider (i) relaxing the categories of elderly persons eligible for participation in the Scheme, so as to cover those with impairment at mild level, and (ii) allowing elderly persons to purchase individual items of services according to their own needs; if they will consider, of the details; if not, the reasons for that;*
- (7) *as some recognized service providers have relayed to me that the elderly persons have great demand for general care services such as household cleaning, escorting services and meal delivery, but due to constraints imposed by the requirements of the Pilot Scheme, they cannot flexibly adjust the service-hour ratio of professional services to general care services, whether the authorities will consider, when launching the Pilot Scheme Phase II, allowing service providers to flexibly adjust that ratio so as to meet the actual needs of elderly persons; if they will, of the details; if not, the reasons for that;*
- (8) *given that the social welfare sector opposes to an expansion of the categories of recognized service providers for the Pilot Scheme to cover private enterprises because they generally hold the view that the quality of services provided by the private enterprises varies greatly and there is a lack of regulation, whether the authorities have planned to expand the categories of recognized service providers to cover private enterprises when implementing the Pilot Scheme Phase II; if they have, of the reasons for that and the details;*
- (9) *of the expected time for the release of the final report on the Pilot Scheme Phase I; the details of the Pilot Scheme Phase II, including the relevant timetable and the respective numbers of places for day care services offered in various districts; and*

- (10) *as the public have all along doubted the service quality and regulation of private residential care homes for the elderly, whether the authorities will consider shelving the implementation of the Pilot Scheme on Residential Care Service Voucher for the Elderly and re-allocating the relevant funds for use in the Pilot Scheme on Community Care Service Voucher for the Elderly; if they will, of the details; if not, the reasons for that?*

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

- (1) The Pilot Scheme on Community Care Service Voucher for the Elderly (the Pilot Scheme) is implemented in two phases. The First Phase, launched in September 2013, is still ongoing. Information on the number of elderly persons issued with community care service (CCS) vouchers and those who had used the vouchers in the past two years is tabulated below:

<i>As at</i>	<i>Number of persons issued with vouchers</i>		<i>Number of persons who were using the vouchers</i>	<i>Number of voucher holders who had not used the service</i>	<i>Number of persons having withdrawn from the Pilot Scheme</i>	
	<i>Number</i>	<i>Cumulative total</i>			<i>Number</i>	<i>Cumulative total</i>
End-December 2013	808	808	341	424	43	43
End-March 2014	443	1 251	539	604	65	108
End-June 2014	247	1 498	756	454	180	288
End-September 2014	260	1 758	832	377	261	549
End-December 2014	200	1 958	951	280	178	727
End-March 2015	134	2 092	972	232	161	888
End-June 2015	251	2 343	1 049	235	171	1 059
End-September 2015	307	2 650	1 114	254	223	1 282

- (2) The Social Welfare Department (SWD) does not have information on the number of cases suffering from dementia among voucher holders.

- (3) The numbers of elderly persons who had utilized or withdrawn from single mode (day care) or mixed mode (day care and home care) services under the Pilot Scheme and volume of usage from September 2013 to June 2015 are tabulated below:

	<i>Utilization of single mode services</i>			<i>Utilization of mixed mode services</i>			<i>Total number of elderly service recipients⁽⁷⁾</i>
	<i>Number of elderly persons⁽¹⁾</i>	<i>Average number of sessions of day care services utilized per week⁽²⁾</i>	<i>Number of persons having withdrawn from the Pilot Scheme⁽³⁾</i>	<i>Number of elderly persons⁽⁴⁾</i>	<i>Average number of sessions of day care services and home care services utilized per week⁽⁵⁾</i>	<i>Number of persons having withdrawn from the Pilot Scheme⁽⁶⁾</i>	
From September 2013 to June 2015	1 051	5.3 sessions of day care services	304	532	4 sessions of day care services and 2 hours of home care services	162	1 583

Notes:

- (1) The total number of elderly persons who had utilized single mode services during the period, including those who were still participating in and those who had withdrawn from the Pilot Scheme.
- (2) The average number of sessions of day care services (not less than four hours in each session) utilized per person per week among all elderly persons who had utilized single mode services during the period.
- (3) The total number of elderly persons who had utilized single mode services during the period and had withdrawn from the Pilot Scheme.
- (4) The total number of elderly persons who had utilized mixed mode services during the period, including those who were still participating in and those who had withdrawn from the Pilot Scheme.

- (5) The average number of sessions of day care services (not less than four hours in each session) and average hours of home care services utilized per person per week among all elderly persons who had utilized mixed mode services during the period.
- (6) The total number of elderly persons who had utilized mixed mode services during the period and had withdrawn from the Pilot Scheme.
- (7) The total number of elderly persons who had utilized single or mixed mode services during the period, including those who were still participating in and those who had withdrawn from the Pilot Scheme.
- (4) As at end-September 2015, the cumulative number of elderly persons having withdrawn from the Pilot Scheme was 1 282. Based on the findings of the questionnaire survey conducted by the SWD, the reasons for withdrawal are as follows:

<i>Reasons for withdrawal from the Scheme</i>	<i>Cumulative number of persons having withdrawn from the Pilot Scheme (as at end-September 2015)</i>
Will be admitted/have been admitted to subsidized CCS or subsidized/private residential care service	527
No suitable service provider/service packages	342
Deceased	185
Have carers, including family members or domestic helpers	184
Other reasons (for example: out of town, hospitalization)	44
Total	1 282

- (5) In its report on a study on enhancing CCS, the consultant of the Elderly Commission (EC) put forward two fundamental principles: first, elderly care is a shared responsibility of taxpayers and service users; and second, those who can afford should pay more, so that more public resources can be deployed to assist elderly persons who are most in need. The "affordable users pay" principle is supported by the majority of stakeholders. Having regard to their views, elderly persons participating in the First Phase of the Pilot Scheme are required to co-pay with the Government for receiving services, and the required co-payment amounts are determined based on their

household income. The co-payment rates are set at five levels on a sliding scale, so that the less that the user can afford, the more the Government pays.

(6) and (7)

Services covered by the First Phase of the Pilot Scheme are similar to other existing CCS subvented by the SWD. The SWD has commissioned the Sau Po Centre on Ageing (COA) of the University of Hong Kong to conduct an evaluation on the First Phase of the Pilot Scheme. The SWD is examining possible areas for refinement in the light of the initial findings and recommendations of the mid-term evaluation submitted by COA as well as other relevant views and considerations with a view to drawing up the implementation details of the Second Phase of the Pilot Scheme.

- (8) Having regard to the initial findings of the mid-term evaluation of the First Phase of the Pilot Scheme, COA has recommended, among others, that the pool of service providers be expanded in order to enhance service quality and diversity by encouraging more non-governmental organizations (NGOs), social enterprises, self-financing service providers and private operators to become recognized service providers. The SWD will draw up the implementation details of the Second Phase of the Pilot Scheme having regard to all relevant considerations and views.
- (9) COA is finalizing the mid-term evaluation report of the First Phase of the Pilot Scheme. The Government will provide the report to the Legislative Council Panel on Welfare Services (WS Panel) when it is ready. The SWD is drawing up the implementation details of the Second Phase of the Pilot Scheme and will consult the WS Panel and stakeholders on the proposals later.
- (10) The Government is committed to strengthening the monitoring of residential care homes for the elderly (RCHEs). Our priority at this stage is to further strengthen the monitoring mechanism of RCHEs under the existing legal framework to ensure their service quality. The SWD will continue implementing and expanding the work of the Service Quality Groups on RCHEs, under which community

personalities pay regular visits to different types of RCHEs. Meanwhile, the SWD will explore how training for both the management and staff of RCHEs can be strengthened to enhance care standards.

The purpose of the Pilot Scheme on Residential Care Service Voucher for the Elderly (Pilot Scheme on RCSV) is to enable eligible elderly persons, through the "money-following-the-user" approach, to choose from residential care places run by NGOs or private operators participating in the scheme. Such residential care places are required to meet the standards stipulated under the scheme, and the voucher value will be higher than the average value of the Comprehensive Social Security Assistance received by elderly persons residing in private RCHEs. This will provide economic incentives for RCHEs to improve their services. The Government has tasked EC to study the feasibility of RCSV. In response to the invitation of the responsible working group under EC, the consultant team assisting in the study is further examining the design of the Pilot Scheme, especially on aspects including case management, quality assurance, complaint handling, and so on. Subject to the recommendations of the report to be submitted by EC later, the Government has earmarked \$800 million for issuing a total of 3 000 RCSVs in phases over three years.

Regulation of Inbound Mainland Tour Groups

9. **MS STARRY LEE** (in Chinese): *President, the number of mainland visitors to Hong Kong has shown a downward trend in recent days. While the Government and members of the tourism industry are exploring ways to attract more visitors to Hong Kong, an incident has occurred recently in which a mainland visitor died after he had allegedly been attacked during a row over shopping issues. It has been reported that some mainland travel agencies have arranged people to disguise as tourists and join the tour groups organized by them (commonly called "shadow tour group members"). In order to earn commissions, such people coerce other tour group members into shopping in Hong Kong by way of persuasion or even by force. Since these shadow tour group members appear to be unrelated to the mainland travel agencies concerned, it is difficult for the mainland authorities to regulate their acts.*

Some members of the tourism industry have relayed to me that inbound mainland tour groups (IMTGs) at low prices as well as arranged shopping tours have brought about quite a number of problems in recent years. Apart from repeated incidents of confrontations between tour group members and tour guides arising from forced shopping, nuisances were also caused by such groups to residents in the vicinity of shopping spots, arousing strong dissatisfaction among the residents. Such situations not only tarnish Hong Kong's hospitable image and the reputation of the tourism industry, but also undermine mainland visitors' confidence in travelling to Hong Kong. In this connection, will the Government inform this Council:

- (1) of the number of complaints received by the authorities in each of the past three years lodged by IMTG members, and among such complaints, the respective numbers of those involving forced shopping and those in which tour group members discovered after shopping at designated shops that the goods they bought did not match the descriptions;*
- (2) whether it will, in collaboration with the China National Tourism Administration, explore measures to deal with the problem of shadow tour group members, including (i) suggesting the Mainland to make reference to the Tourist Guide Accreditation System in Hong Kong and require mainland travel agencies to register with the mainland authorities the particulars of their tour escorts before departure of the tour groups concerned, and (ii) forwarding the name list of those IMTG members who are the subjects of complaints to the mainland authorities for follow-up, as well as considering restricting them from re-entering Hong Kong; if it will, of the details; if not, the reasons for that;*
- (3) given that some members of the tourism industry have relayed that while the Tourism Law was introduced by the mainland authorities in 2013, with a view to curbing the irregularities of the tourism industry by means of suspension of business, heavy punishment, etc., the effectiveness of such legislation has gradually weakened in the light of the latest business situation of the industry, whether the Government will discuss with the mainland authorities ways to step up efforts in combating IMTGs at low prices; if it will, of the details; if not, the reasons for that;*

- (4) *whether it will explore taking measures from the perspective of consumer rights to combat arranged shopping tours, including deploying more police officers as well as customs and excise officers to patrol outside designated shops in order to enhance the deterrent effects; if it will, of the details; if not, the reasons for that;*
- (5) *of the number of complaints received by the authorities in each of the past three years about nuisances caused by IMTGs to local residents, as well as the details of such nuisances, with a breakdown by District Council district; of the authorities' measures to follow up such complaints; and*
- (6) *as members of the public hope that the Government will establish a Travel Industry Authority expeditiously in order to enhance the monitoring over IMTGs and the Government has indicated in the 2015 Policy Agenda that it will strive to pass the legislation for the establishment of the Authority before the end of the current term of the Legislative Council, of the current progress of the work on drafting the relevant bill; when the relevant bill is expected to be introduced into this Council?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, the HKSAR Government attaches great importance to the unfortunate incident involving the death of a tourist last month. After the incident, the Police has swiftly conducted investigation and arrested several persons involved in the case. The investigation work is still underway. At the same time, the Tourism Commission (TC) has also requested the Travel Industry Council of Hong Kong (TIC) to investigate whether the incident involved any breach of the TIC's rules. In response to this incident, the HKSAR Government announced last week several measures to strengthen the regulation of Mainland inbound tour groups with a view to minimizing the problems arising from zero/negative tour fares and coerced shopping through a multi-pronged approach.

Our replies to the questions raised by Ms Starry LEE are as follows:

- (1) The number of complaints that the TIC received from Mainland inbound tour group travellers in the past three years is as follows:

	2013	2014	2015 (Jan to Sep)
Total number of complaints from Mainland inbound tour group travellers*	341 Cases (involving 398 items)	273 Cases (involving 295 items)	192 Cases (involving 222 items)
Complaint items:			
Coerced shopping by tourist guides	131	142	89
Shopping at registered shops [#]	182	125	111
Others	85	28	22

Notes:

* A single case may involve more than one complaint item.

Including problems concerning refund and discrepancies between the purchases and the displayed items, quality, prices, maintenance services, and so on.

- (2) In order to combat the recent problem of "shadow tour group members", we have requested the TIC to implement additional regulatory measures as soon as possible, which include requesting the receiving agents in Hong Kong, when registering Mainland inbound tour groups with the TIC, to provide the name lists of tour group members (including the name of the tour escort) in advance for the TIC's inspection if the tour itinerary includes visits to registered shops. During the inspection process, if the TIC finds that the name of any Mainland travellers appears repeatedly in the name lists of different tour groups within a short period of time, there will be a reason to suspect those travellers are "shadow tour group members" who have been arranged to infiltrate in tour groups to force travellers to make purchases. Based on this, the TIC will inform relevant tourism authorities in the Mainland so as to enable the Mainland authorities to follow up as appropriate. In addition, if the TIC receives complaints from tour group members, it may assist in informing the relevant organizations in the Mainland for identity verification.

- (3) The HKSAR Government has all along maintained close liaison with the China National Tourism Administration (CNTA) on regulation of the tourism markets in both places, and regularly provides updates of the situation of the tourism industry in Hong Kong to the CNTA. The Mainland authorities have also been supportive of our regulatory work. The TC and TIC will inform the CNTA of the suspected non-compliance cases in Hong Kong so as to facilitate its investigation and follow up with regard to the relevant Mainland organizing agents. In response to this incident, the Commerce and Economic Development Bureau, to be joined by the TIC, will have a meeting with the CNTA in Beijing today (11 November) to discuss the feasible measures to strengthen regulation of the tourism markets in both places.
- (4) We attach great importance to the protection of travellers' consumer rights. The TIC has regulations prohibiting travel agents and tourist guides from compelling or misleading travellers in any way to make purchases, or forcing travellers to remain in registered shops. In addition, travel agents must register the information of those shops with the TIC in advance before arranging tour group members to patronize any designated shops. Registered shops have to undertake a number of pledges with the TIC, including complying with the requirements of the "Refund Protection Scheme (Registered Shops) for Inbound Tour Group Shoppers" (Refund Protection Scheme). According to the Refund Protection Scheme, if Mainland tourists are dissatisfied with the purchases, and the purchased items are undamaged and without wear and tear because of usage, they may be fully refunded if the request for refund is made within six months after purchase and with original receipt. If a registered shop breaches the pledges, the TIC may, depending on the circumstances, penalize the shop concerned including revocation of its registration.

On the other hand, the Trade Descriptions Ordinance (TDO) prohibits common unfair trade practices deployed by traders against consumers, including aggressive commercial practices. The Customs and Excise Department (C&ED), as the principal

enforcement agency, adopts a strategy covering compliance promotion, law enforcement and public education. For the tourism sector, the C&ED organizes seminars on the requirements under the TDO from time to time, and maintains a close liaison with the trade and the TIC. In addition, the C&ED proactively handles enquiries and complaints from locals and tourists, and conducts patrols and promotional activities in the market.

The C&ED also conducts patrols at registered shops in various districts where many registered shops are located, namely Hung Hom, To Kwa Wan, Tsim Sha Tsui, Kwun Tong and Kowloon Bay, Tai Kok Tsui and Lai Chi Kok, in order to combat any practices violating the TDO by those shops. We have also requested the TIC to strengthen spot checks on Mainland inbound tour groups. We trust that this will help to combat the problems of coerced shopping which involves unfair trade practices, and protect consumer rights.

Apart from law enforcement, we wish to achieve prevention of unfair trade practices. To this end, the C&ED will set up a scheme on honest shopping and invite relevant shops to participate, with a view to promoting self-discipline in the market for prevention of any law-contravening acts.

- (5) The number of complaints concerning nuisances caused by Mainland inbound tour groups that the TC received in the past three years is as follows:

<i>District involved</i>	<i>2013</i>	<i>2014</i>	<i>2015 (Jan to Sep)</i>
Kowloon City	9 cases (Traffic congestion)	4 cases (including 3 cases on traffic congestion and 1 case on environmental hygiene)	4 cases (Traffic congestion)

<i>District involved</i>	<i>2013</i>	<i>2014</i>	<i>2015 (Jan to Sep)</i>
Central and Western	1 case (Traffic congestion)		
Wan Chai			1 case (Traffic congestion and environmental hygiene)
Eastern		1 case (Traffic congestion)	
Yau Tsim Mong			1 case (Traffic congestion)
Southern	1 case (Traffic congestion)	2 cases (Traffic congestion, environmental hygiene and noise)	1 case (Traffic congestion and environmental hygiene)
Others			1 case* (Traffic congestion and noise)
Total	11 cases	7 cases	8 cases

Note:

- * The concerned case reflected in general the nuisances caused by tourist activities. The districts mentioned included border areas, Eastern, Kowloon City, Yau Tsim Mong, Southern, and so on.

The Food and Environmental Hygiene Department (FEHD), Transport Department (TD) and the Hong Kong Police Force (the Police) do not maintain statistics on the breakdown of complaints involving Mainland tour groups.

The TC maintains liaison with the tourism sector and relevant departments on complaints concerning nuisances caused by Mainland tour groups. Regarding the problem of traffic congestion, the Police and relevant departments take law-enforcement actions in response to violation situations so as to alleviate the problem. The TC has all along maintained close liaison with the TIC on the traffic conditions of tourist attractions in various districts. The TIC has from time to time issued circulars to its members urging travel agents to ensure that tour coaches comply with traffic rules when going to tourist attractions, and to make adjustment to the itineraries having regard to the traffic conditions, so as to avoid overloading the traffic flow in the vicinity of the tourist attractions and to minimize the inconvenience caused to other road users. In addition, we also liaise with the trade through the TIC on strengthening maintenance of order at the spot and helping to manage the traffic flow.

On illegal parking of coaches, the TD has been closely monitoring the demand and supply for coach parking spaces in various districts of Hong Kong. Over the years, the TD has been working with the TC in providing additional pick-up and drop-off spaces as well as parking spaces at appropriate locations (including tourist and shopping hotspots) for coaches, as long as road safety and other road users are not affected. The TD also provides parking spaces for coaches through short-term tenancy car parks and the Government will also request developers to provide appropriate number of parking spaces for coaches in suitable new developments.

To improve the coach parking facilities in tourist hotspots, the TD has set up a new metered parking site for coaches in Hoi Yue Street, North Point in end September 2015 which provides about 30 coach parking spaces. In addition, the Highways Department is carrying out works to extend the existing coach layby at Salisbury Road, Tsim Sha Tsui to provide three additional coach parking spaces. The works are expected to complete by end December 2015.

As for environmental hygiene problems, the FEHD will keep a close watch on the situation of environmental hygiene at street levels, and will make arrangements for the cleansing contractors to provide daily street cleansing services as well as wash the streets on a regular

basis. If tourists are found to have been gathering on the streets frequently causing environmental hygiene problems, the FEHD will distribute leaflets to tour escorts, thereby advising tourists that littering and spitting in public places are not allowed and that those who have committed the offences will be prosecuted. At the same time, the FEHD will, as appropriate, provide additional litter bins at suitable locations and put up notices at conspicuous places to remind the public not to litter. The FEHD officers will also be deployed to conduct blitz inspections at locations of concern from time to time. Enforcement actions will be taken against persons found to have contravened cleanliness regulations.

- (6) The HKSAR Government has all along attached great importance to the healthy development of the tourism industry. On regulation of the operation of the tourism sector, the Government has announced that the Travel Industry Authority (TIA) would be established to take over the licensing and regulatory functions of the Travel Agents Registry and the TIC. The targets of regulation will include travel agents, tour escorts and tourist guides. In the past two years, the Government continued to have active discussion with the trade concerning the proposals of detailed arrangements under the legislation and the future role of the TIC. During the process, we had to make necessary amendments to the original proposals having regard to the trade's views. Such work has taken considerable time. We are pressing ahead with the drafting work of the new legislation for the establishment of the TIA and implementation of a new regulatory framework, and the time required for drafting the legislation is longer than originally estimated. The TC will, in close collaboration with the Department of Justice, continue to drive for early completion of the drafting work of the legislation and introduction of the bill into the Legislative Council thereafter.

Redevelopment of Former St. Joseph's Home for the Aged and Conservation of Its Historic Buildings

10. **MISS CHAN YUEN-HAN** (in Chinese): *President, the former St. Joseph's Home for the Aged (SJHA), situated at No. 35 Clear Water Bay Road, is nearly a century old. Its Villa, Gate House and Dormitory A were*

classified as Grade 2 historic buildings by the Antiquities Advisory Board in 2010. It has been reported that the owner of SJHA has planned to build residential buildings and commercial facilities adjacent to these historic buildings, and the building plans concerned have already been approved by the authorities. However, the land lot concerned and the historic buildings thereon have all along been lying idle because the issue of land premium is not yet settled. Some residents have relayed to me that SJHA is a rare cluster of historic buildings in Kowloon East which, if revitalized into a local historical and cultural tourist attraction, will give a boost to the re-planning of the nearby land lots and bring about significant benefits for the development of the district. Besides, they are also worried that the residential buildings and commercial facilities proposed to be built will aggravate the traffic congestion problem in the district. In this connection, will the Government inform this Council:

- (1) whether it has assessed the preservation value, architectural interest and current conservation status of the Gate House and Dormitory A of SJHA (the two historic buildings); if it has assessed, of the outcome; of the number of inspections of these buildings conducted, and the outcome of the assessments on their conditions made by the Commissioner for Heritage's Office and the government departments concerned in the past three years;*
- (2) whether it knows if the owner of SJHA carried out maintenance works on the two historic buildings and applied for assistance under the Financial Assistance for Maintenance Scheme for historic buildings in the past three years;*
- (3) of the details of the land premium negotiation between the authorities and the owner of SJHA; and the details of the buildings proposed to be built;*
- (4) whether it has discussed with the owner of SJHA the conservation and revitalization of the two historic buildings; if it has, of the details of the options concerned; if not, whether it has any plan to discuss with the owner about the relevant issues, including preservation of these historic buildings in-situ and their adaptive re-use by means of land exchange or increase in gross floor area, etc.; if it has such plans, of the details; if not, the reasons for that; and*

- (5) *as some residents in the district have pointed out that the section of New Clear Water Bay Road near SJHA is often congested, whether the authorities have assessed the future extra traffic flow which will be brought about by the buildings proposed to be built; if they have, of the relevant figures and the current traffic data of the road section concerned?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, my reply to the various parts of Miss CHAN Yuen-han's question is as follows:

- (1) to (4)

There are three privately owned historic buildings, all accorded a Grade 2 status, at No 35 Clear Water Bay Road, Ngau Chi Wan, Kowloon, namely the Villa, the Gate House and Dormitory A of the former St. Joseph's Home for the Aged. Planning permission for a comprehensive commercial/residential development at the above site was granted by the Town Planning Board (TPB) in 2003. One of the conditions of the planning permission requires the owner to submit and implement a conservation plan for preservation of the three historic buildings. Under the latest amended development plan, in addition to the *in situ* preservation and adaptive re-use of the three historic buildings, the site will provide, amongst other things, a new housing development, a shopping centre, a residential home for the elderly, a kindergarten and a public space with a minimum area of 2 200 sq m. The redevelopment proposal requires lease modification and premium, and the owner is discussing these issues with the Lands Department.

The Buildings Department (BD) approved the foundation plans for the site in 2004 and granted consent in 2005 for commencement of the foundation works which were generally completed in 2006. The BD approved the general building plans submitted by the owner for this preservation-cum-development project in 2011. The three historic buildings to be preserved have been integrated into the approved design. In 2012, amendment plans for the foundation works to tally with the latest building design were approved and

consent for the corresponding works was granted. All the foundation works were completed in 2013. In 2014, consent for commencement of superstructure works was granted and the owner also submitted a notification for commencement of such works.

St. Joseph's Home for the Aged, established by the Little Sisters of the Poor in 1926, is the first premises dedicated to take care of the elderly in Hong Kong. During the 1930s, it served as a refuge for refugees fleeing to Hong Kong from the wars. One of the three historic buildings, the Villa, is a single storey bungalow of symmetrical design built in 1919. It features a colonnaded verandah and a raised arched semi-basement for ventilation. The Villa was originally owned by Mr CHAN Keng-yu, who was a compradore of Douglas Laprik and Co. and one of the Founding Directors of the Chinese Chamber of Commerce. The Villa was already in place when the premises were sold to the Little Sisters of the Poor. Another historic building, the Gate House which is at the entrance of the site, was built in mid-1930s. Its front and rear façades feature wide arches with moulded architraves and keystones. The archways are flanked on either side by coupled pilasters of the Doric Order. A tablet placed at the centre of the front façade is inscribed with the letters "JMJ", which stand for "Jesus, Mary and Joseph". Both the Villa and Gate House are built in neo-classical colonial style while Dormitory A, the third historic building, is built in modernist style. Built around 1932 to 1933, Dormitory A is a two-storey building and features a linear plan, horizontal banding, rounded corners, a Chinese tiled pitched roof, plain round columns and streamlined balconies.

As these three privately owned historic buildings will be preserved *in situ* for adaptive re-use, the Commissioner for Heritage's Office (CHO) and the Antiquities and Monuments Office (AMO) have not explored other revitalization alternatives with the owner. Record on the maintenance works for these three historic buildings is not available, as neither the CHO nor the AMO has received any application from the owner for such works under the Privately-Owned Graded Historic Buildings Financial Assistance for Maintenance Scheme.

The AMO found that these three historic buildings were in good condition during a site inspection in July 2013. Though the AMO could not gain further entry to the works area for inspection since the works of the private development project commenced, it has continued to closely monitor the condition of these three historic buildings.

- (5) The owner carried out a Traffic Impact Assessment (TIA) for the proposed development project when applying for planning permission from the TPB. According to the assessment at the time, the traffic flow along Clear Water Bay Road eastbound during the morning peak hours would increase by about 400 vehicles per hour after the completion of the project. In granting planning permission for the project, the TPB imposed conditions to require the owner to implement the traffic improvement measures proposed in the TIA. They include provision of the section of Ping Ting Road from Fung Shing Street to the proposed development; improvement works to the existing service lane at Ngau Chi Wan Market and to the access road from Clear Water Bay Road to the proposed development; improvement works to the road junctions at Clear Water Bay Road/Lung Cheung Road, Clear Water Bay Road/New Clear Water Bay Road, Fung Shing Street/Ping Ting Road, and Jat's Incline/Clear Water Bay Road; provision of lay-bys along Clear Water Bay Road to the south of the proposed development and in front of the existing public mini-bus terminus; and provision of an elevated walkway to Choi Wan Estate and a pedestrian connection to Choi Hung MTR Station.

As regards the current road conditions, the latest figures from the Transport Department showed that the traffic flow along Clear Water Bay Road eastbound during the morning peak hours of a weekday in 2014 was about 2 500 vehicles per hour.

Mentally Ill Patients with a Propensity to Violence

11. **MR CHRISTOPHER CHUNG** (in Chinese): *President, earlier on, two incidents happened consecutively in which a man with mental illness records allegedly killed a family member and another stabbed passers-by. These*

incidents have aroused concerns about the potential threats posed to the public by mentally ill patients with a propensity to violence living in the community. In this connection, will the Government inform this Council:

- (1) of the number of cases, in each of the past 10 years, in which mentally ill and ex-mentally ill persons assaulted others; the resultant casualties of such cases, with a breakdown by whether or not the victim(s) and the assaulter knew each other;*
- (2) of the number and age distribution of new patients diagnosed with mental illnesses in each of the past three years and, among them, the number of those identified as having a propensity to violence;*
- (3) of the current situation of psychiatric specialist services of public hospitals, including the respective numbers of outpatient clinics, hospital beds and psychiatrists;*
- (4) whether it has reviewed if the existing public psychiatric services can identify mentally ill patients with a propensity to violence so that appropriate treatments and support can be provided for such patients;*
- (5) of the existing criteria for discharging mentally ill patients from hospitals, and whether it will review such criteria; and*
- (6) of the measures in place to strengthen support for mentally ill patients living in the community who have a propensity to violence or records of wounding others?*

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

- (1) The Police and the Hospital Authority (HA) do not maintain statistics on the number of cases in the past 10 years in which mentally ill and ex-mentally ill persons assaulted others, the resulting casualties of such cases, and whether or not the victims and the assaulters knew each other.

- (2) The total number of patients (by age group) receiving different kinds of treatment in psychiatric units of the HA is listed as follows:

<i>Age⁽¹⁾</i>	<i>2012-2013</i>	<i>2013-2014</i>	<i>2014-2015</i>
Aged 0 to 17	21 900	24 100	26 500
Aged 18 to 64	133 800	139 100	143 700
Aged 65 or above	41 900	44 900	47 200
Total ⁽²⁾	197 600	208 100	217 400

Notes:

- (1) Age as at 30 June of the reporting year.
- (2) Figures are rounded to the nearest hundred. Individual figures may not add up to the respective total due to rounding.

The HA does not maintain the statistics on the number and age distribution of new patients diagnosed with mental illnesses each year nor the number of those identified as having a propensity to violence among them.

- (3) The psychiatric specialist service of the HA is operated in an integrated and multi-disciplinary mode. A medical team comprising psychiatrists, psychiatric nurses, clinical psychologists, medical social workers and occupational therapists provide patients with the appropriate treatment and follow-up care, including hospitalization, specialist out-patient consultation, daytime rehabilitative training and community support service, in accordance with their acuity and clinical needs. As at 31 March 2015, there were 333 doctors working in the psychiatric specialist departments of the HA, providing comprehensive psychiatric specialist service for patients. Besides, there are a total of 18 psychiatric specialist out-patient clinics under the HA and 3 607 psychiatric beds in 10 public hospitals, providing patients with the appropriate treatment.
- (4) To facilitate early identification and follow-up of mentally ill patients with propensity to violence or record of criminal violence in a more effective manner, the HA has earlier reviewed and enhanced the priority follow-up system, which was established years ago, and already adopted a more comprehensive special care system. Under

the new system, patients are categorized into different risk groups according to their clinical conditions and the severity of their past propensity to violence or record of criminal violence. The multi-disciplinary team comprising different healthcare professionals will draw up appropriate care plans and follow up the cases according to the needs and risk profiles of patients. At present, the HA provides psychiatric service to more than 210 000 patients, about 7 000 of whom are put under the special care system for further follow-up.

- (5) To help patients, who have a history of or disposition to commit criminal violence but are currently in stable conditions, to reintegrate into the community, attending doctors may allow them to be discharged subject to specific conditions under the Mental Health Ordinance (Cap. 136) (hereinafter referred as "conditionally discharged"), including residing at a specified place, receiving follow-up care in the community and regular follow-up consultation, and taking medication as prescribed by a medical practitioner.

Regarding "conditional discharge" cases, if a patient fails to comply with any condition imposed on him/her, and if the attending doctor is of the opinion that it is necessary in the interests of the patient's health or safety, or for the protection of other persons, to recall the patient to a mental hospital, the doctor can recall the patient to the mental hospital under section 42B of the Mental Health Ordinance (Cap. 136). If the patient does not fall into the "conditional discharge" category and his/her condition warrants detention in a mental hospital for observation (or observation followed by medical treatment) and such detention is in the interests of his/her own health or safety or for the protection of other persons, the Court can make an order to authorize the detention of the patient in the mental hospital for observation and medical treatment under section 31 of the Mental Health Ordinance (Cap. 136).

The HA issues guidelines on the operation and administration of in-patient service (including in-patient psychiatric service) from time to time so as to improve the management of the service. The HA will monitor the operation and arrangement concerned, and conduct evaluation as and when necessary.

- (6) The HA and the Social Welfare Department (SWD) has been taking measures over the years to enhance community support for mentally ill patients (including patients with propensity to violence or record of criminal violence), so as to facilitate their recovery and reintegration into the community. The details are as follows:

Integrated Community Centre for Mental Wellness

Medical social workers of the SWD stationed in the psychiatric hospitals and clinics of the HA provide support services for mentally ill patients. Where patients are assessed to be fit for discharge, medical social workers will provide counselling service for those in need and their families to cope with issues such as emotional and family relationship problems and assist them in applying or referring them for rehabilitation and community services provided by service units like Integrated Community Centres for Mental Wellness (ICCMWs). Currently, there are 24 ICCMWs across the territory, providing one-stop, district-based community support services ranging from prevention to risk management for discharged mentally ill patients, persons with suspected mental health problems, their families/carers and residents living in the districts. These services include outreaching visits, casework counselling, therapeutic and supportive groups, social and recreational activities, day training and public education programmes. The ICCMWs will also maintain contact with the HA to follow up on cases in need.

Case Management Programme

Since April 2010, the HA has launched a Case Management Programme to proactively provide intensive, continuous and personalized support for patients with severe mental illness living in the community. The case managers under the programme will work closely with service providers, particularly the ICCMWs set up by the SWD, to provide community support to target patients. The programme has been extended to cover all 18 districts in the territory since 2014-2015 to benefit more patients. In 2015-2016, the HA will introduce a peer support element into the programme to further enhance community support for patients with severe mental illness.

Intensive Care Teams

In order to enhance the capacity to provide rapid response for emergency referrals in the community, Intensive Care Teams were set up by the HA in all the seven clusters in 2011-2012 to strengthen the intensive support and long-term care for high-risk mentally ill patients residing in the community.

Mental Health Direct

The HA has established a 24-hour psychiatric hotline "Mental Health Direct" to provide support for mentally ill patients and their carers. The hotline is operated by professional psychiatric nurses, who will give advice on mental health issues to patients, their carers and other stakeholders. The psychiatric nurses will also take the initiative to contact rehabilitated service users with a view to facilitating their reintegration into the community.

The HA and the SWD will duly review and monitor the services provided and assess the manpower requirements to ensure that their services can cope with the needs of mentally ill and ex-mentally ill patients.

Venue for Hong Kong versus China FIFA World Cup Qualification Match

12. **DR KENNETH CHAN** (in Chinese): *President, Hong Kong's home match against China in the second round of the Asian region matches for the 2018 FIFA World Cup qualification will be staged on the 17th of this month. Earlier on, quite a number of football fans have expressed their hope that the match be held in the Hong Kong Stadium (HKS), which can accommodate more spectators, so that more football fans can cheer for the Hong Kong team at its home stadium. However, as the Olympic Rugby Sevens Qualifier Tournament had been scheduled to be staged at HKS on the 7th and the 8th of this month, the Leisure and Cultural Services Department (LCSD) anticipated that considerable damage would be caused to the turf of HKS after around 50 rugby matches and as a result, the turf could not be restored in time for staging that football match. Eventually, the Hong Kong Football Association (HKFA) decides to stage the football match in the Mong Kok Stadium. In connection with the venue arrangement for the football match, will the Government inform this Council:*

- (1) *as a number of home matches of the Hong Kong Football Representative Team held in the past few years drew full houses, whether the authorities have considered according priority to the aforesaid football match to use HKS; if they have considered, of the details; if not, the reasons for that;*
- (2) *when LCSD came to know the date for staging the football match; whether LCSD received HKFA's application for hiring HKS to stage the match; if LCSD did, when HKFA submitted the application and when LCSD received HKFA's application for staging the match in the Mong Kok Stadium;*
- (3) *of the justifications for LCSD making the statement that the turf of HKS could not be restored in time; whether LCSD will make public the relevant papers and information, including the report prepared by turf experts; if LCSD will not, of the reasons for that;*
- (4) *of the details concerning the discussions and decisions made by LCSD and HKFA regarding the venue for staging the football match, including the dates of the relevant meetings and the justifications for the decisions made; whether LCSD will make public the relevant papers and information; if LCSD will not, of the reasons for that; and*
- (5) *whether, after the re-turfing work of the turf of HKS was completed in April this year, LCSD has adopted new measures for maintaining and managing the turf so as to enable more international football matches to be staged in HKS; if LCSD has, of the details of the new measures; if not, the reasons for that?*

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

- (1) The Hong Kong Stadium (HKS) is a multi-purpose sports and recreation venue that can stage football matches, rugby sevens matches and other major events. The Leisure and Cultural Services Department (LCSD) follows the established procedures in approving

the booking applications for using HKS taking into account factors such as the nature of event, turf conditions and the scheduled turf maintenance programme.

(2) and (3)

The Hong Kong Rugby Union (HKRU) informed the LCSD in September 2014 of its intention to bid for hosting the Asia Rugby Sevens Qualifier (ARSQ) which was scheduled for November 2015. The HKRU submitted a booking application in December 2014 for using HKS to stage the event. As no competing bookings were received at that time, the LCSD accepted the application by the HKRU in early December 2014 and reserved HKS for ARSQ scheduled for 7 and 8 November 2015.

The Hong Kong Football Association (HKFA) applied to the LCSD in January 2015 for hiring HKS to stage events including international matches scheduled for the period from 30 October to 18 November 2015. The booking period of HKFA and the ARSQ matches are within days of each other. Given that damage would be caused to the turf after the vigorous rugby matches and that appropriate maintenance works need to be carried out in a timely manner to recover the pitch, the LCSD replied to HKFA in March 2015 that its booking could not be accepted as the venue would be used by other applicants for staging major international sports events in early November.

Following the draw for the World Cup qualifier and confirmation of schedule for the matches, HKFA made a formal request to the LCSD in mid-April 2015 for staging the World Cup qualifier match — Hong Kong vs China at HKS on 17 November 2015. Considering the interest of football fans in the match and HKFA's anticipation for the match venue, the LCSD has maintained communication with HKFA regarding the venue for the event. HKFA was notified that a decision on whether the match could take place at HKS would only be made after the completion of the reconstruction works and a close observation of the growth of the new turf.

As regards the Hong Kong Stadium Turf Pitch Reconstruction Project, works commenced in April 2015 and regular reports were submitted to the Expert Group on the Hong Kong Stadium Turf Pitch under the LCSD. The re-turfing works completed at the end of July. However, the growth of the new turf was far slower than expected because of the extremely hot weather in August. The temperature of the sand-based soil was persistently high, sometimes over 35°C, which was outside the tolerable range of immature turf. The growth rate of the new turf was far slower than expected and the turf coverage was not dense enough in August and September. In view of this, the re-opening of the stadium has been postponed from October to November 2015 to allow more time for better establishment and stabilization of the turf, so that a deeper root system and better turf coverage can be achieved to prepare the pitch for ARSQ scheduled for 7 and 8 November.

The LCSD expected that there would be considerable damage to the new turf after some 50 rugby matches. Having estimated the growth condition of the turf and in consultation with turf experts, the LCSD considered that about four weeks should be allowed for regular turf recovery in accordance with established practice after ARSQ. After assessment of the latest situation by turf experts at the end of September, the LCSD confirmed that HKS pitch could not be restored to a satisfactory state in time for high-level football match to take place after the ARSQ. The LCSD formally notified HKFA on 8 October and suggested it to consider using other LCSD venues. Eventually, HKFA decided to hold the match at Mong Kok Stadium. The damage of HKS pitch turned out to be more serious than expected after ARSQ. The main reason was that the persistent high temperature during the establishment of the new turf in August and September inhibited the growth of the root system of the new turf. As a result, the shallow root system could not withstand the damage caused by rigorous rugby players and the turf was displaced.

- (4) The LCSD has liaised with HKFA, and provided a suitable venue for staging the World Cup qualifier taking into account the practical circumstances as specified in parts (2) and (3) above. It would be inappropriate for the LCSD to disclose the details of booking applications which contain information of individual organizations.

(5) The LCSD established a Sports Turf Management Section in May 2014 to strengthen the turf management of natural turf pitches. It provides professional advice and technical support for the natural turf pitches managed by the LCSD, in particular HKS and other pitches designated for the Hong Kong Premier League. The Section is also tasked with facilitating the sharing and transfer of knowledge and experience, as well as strengthening the training of staff. It closely participates in and supports the Hong Kong Stadium Turf Pitch Reconstruction Project with a view to offering comprehensive and proper professional advice and technical support for the Stadium in the future. In addition, the LCSD has taken the following measures to further improve the management of the HKS turf pitch:

- In the course of the Reconstruction Project, the LCSD has arranged the staff responsible for turf maintenance to join the training provided by expert consultant to enhance their knowledge in specific areas. After the Project is completed, the Stadium staff would follow the professional procedures and guidelines advised by the expert consultants in carrying out routine turf maintenance work to upkeep the turf quality.
- The LCSD has made advanced technology and ancillary facilities available to HKS, such as growth lights and ventilating fans for turf, and employed more ground workers for the maintenance work.
- As to the scheduling of activities and events, the LCSD will discuss with hirers of HKS the scheduling and frequency of activities as well as the conditions of use of the venue with a view to striking a better balance between maintaining the turf quality and meeting user demand. The aim is to avoid causing excessive damage to the turf or compromising the turf maintenance work.

We believe that with the reconstruction of the entire turf pitch and the adoption of an enhanced turf maintenance programme and a stricter approach to scheduling events and activities, the turf quality of HKS can be constantly maintained at a high level.

Promotion of Healthy Dietary Culture

13. **MR FREDERICK FUNG** (in Chinese): *President, earlier on, the World Health Organization (WHO) published an evaluation report on the carcinogenicity of the consumption of processed meat and red meat. Processed meat (such as sausages, ham and bacon) has been classified as "carcinogenic to humans" (i.e. Group 1), and red meat (including pork, beef and mutton) has been classified as "probably carcinogenic to humans" (i.e. Group 2A). The experts concerned have concluded that a daily consumption of 50 grams of processed meat products will increase the risk of colorectal cancer by 18%. In this connection, will the Government inform this Council:*

- (1) *whether, in the light of WHO's report, it will review the existing initiatives to promote a healthy diet; whether, in addition to stepping up publicity and education efforts, the Government will adopt a more prudent approach than that in the past in conducting tendering exercises and food procurement for the canteens inside government buildings, so as to ensure that people patronizing those canteens are served with healthier food; if so, of the details;*
- (2) *given that the Handbook of Selection of Lunch Suppliers devised by the Centre for Health Protection suggests schools to require suppliers to undertake that the provision of food products such as processed or preserved meat will be limited to no more than two days per week, whether the authorities will, in the light of WHO's report, update the relevant guidelines to require suppliers to undertake to avoid using ingredients like processed meat products in preparing lunches for students; and*
- (3) *whether it will consider issuing guidelines to various bureaux and government departments to require them to choose food products and ingredients which comply with healthy diet principles (such as less meat, more vegetables as well as low sugar, low salt and low oil) in preparing or procuring food for the activities they organize, so as to take the lead in promoting a healthy dietary culture; if it will not, of the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the International Agency for Research on Cancer (IARC) of the World Health Organization (WHO) announced the classification of processed meat as "carcinogenic to humans" (Group 1) and red meat as "probably carcinogenic to humans" (Group 2A) on 26 October 2015, which has aroused heated debate and attention worldwide. In view of this, the WHO made a statement on 29 October 2015 that it had published a report in 2002 to advise people to have moderate consumption of preserved meat so as to reduce the risk of cancer. The report published by the IARC does confirm the abovementioned advice of the WHO. The report has not asked people to stop eating processed meat. Instead, it indicates that reducing the consumption of such products can reduce the risk of colorectal cancer. The WHO will continue to research into the role of processed meat and red meat within the context of a healthy diet.

In fact, the Department of Health (DH) has been actively promoting healthy lifestyles as the major prevention strategy against cancer. The healthy eating habits it advocates, that are eating more vegetables and fruits, less red meat and processed meat, and so on, are consistent with the recommendation of the WHO. Apart from promoting healthy eating habits and lifestyles, the DH has specifically reminded the public that consumption of processed meat and red meat is associated with a higher risk of colorectal cancer. Over the years, the Centre for Health Protection has published featured articles entitled "Red meat consumption: the Good and the Bad", "Be Cancer Aware" and "Taking Care of Your Bowels — Colorectal Cancer Prevention and Screening" to explain the benefits and risks of eating red meat and processed meat, related health tips, as well as ways to prevent colorectal cancer. The DH and the Cancer Expert Working Group on Cancer Prevention and Screening under the Cancer Coordinating Committee jointly published a booklet entitled "Prevention and Screening for Colorectal Cancer" in 2013. The booklet sets out the risk factors for colorectal cancer, which include high consumption of red meat and processed meat, and recommends the public to reduce consumption of red meat and processed meat.

As for promotion in schools, the DH launched the "EatSmart@school.hk Campaign" in primary schools in the 2006-2007 school year and published the Nutritional Guidelines on Lunch for Students (for use in primary and secondary

schools). The Guidelines suggest that given five school days in a week, lunch suppliers should not serve item(s) from the limited food group on more than two school days per week. Items from the limited food group include processed meat or preserved meat, such as bacon, ham, sausages and luncheon meat. The Nutritional Guidelines for Children Aged two to six issued by the DH recommend pre-primary institutions to use fresh and healthy ingredients and avoid processed meat such as ham, bacon, sausages and luncheon meat. At the same time, the DH promotes the principles of healthy eating with the use of the Food Pyramid, which include choosing food that is low in fat, salt and sugar. Consumption of processed meat is not encouraged as their fat and salt content is relatively high. To safeguard public health, the DH will continue to keep in view the latest research and recommendations of both local and overseas health authorities, including the WHO, and make amendments to the relevant guidelines when necessary, so as to safeguard public health.

The tendering exercises and food procurement for canteens inside government buildings, as well as the production and order of food items for activities are arranged by the subject bureaux and departments themselves. In light of the study report of the IARC and the statement of the WHO, the DH has disseminated the related health information to government bureaux and departments and their partners, explaining to them and reminding them to pay attention to the report. In particular, government bureaux and departments are advised to reduce the use of processed meat when arranging and providing meals for staff and service targets. Government bureaux and departments are also asked to help disseminate the related health information to their stakeholders.

Services Provided for Children with Developmental or Behavioural Disorders

14. **PROF JOSEPH LEE** (in Chinese): *President, some members of the public have relayed to me that assessment and support services for children under 12 years of age with developmental or behavioural disorders are grossly inadequate. In this connection, will the Government inform this Council:*

- (1) *in each of the past five years, of (i) the number of children referred by doctors or schools or through other channels to queue for assessments at the Child Assessment Centres (CACs) under the Department of Health, (ii) the number of children assessed at various CACs each year, and (iii) the average queuing time for children to receive assessments (with a breakdown of the three pieces of information by age of children and centre);*
- (2) *of the current total number of healthcare personnel in various CACs (with a breakdown by rank); whether the authorities will consider increasing the manpower and other resources for various CACs so that children with developmental or behavioural disorders can receive assessments and treatment as soon as possible; if they will, of the details; if not, the reasons for that;*
- (3) *of the respective numbers of children diagnosed with developmental or behavioural disorders, and the percentages of such numbers in the population of children of the same age group in the territory (with a breakdown by developmental or behavioural disorder) in each of the past five years; and*
- (4) *of the support services provided for children diagnosed with developmental or behavioural disorders; the average queuing time for them to receive rehabilitation training and treatment services in the past five years?*

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

- (1) The Child Assessment Service (CAS) of the Department of Health (DH) provides clinical assessment for children under the age of 12 years with suspected symptoms of developmental problems. New cases are referred from various channels, including Maternal and Child Health Centres (MCHCs), Hospital Authority (HA), private practitioners and psychologists, and so on. In the past five years, CAS received new cases referred from the following sources:

<i>Channels of Referral</i>	<i>Number of cases</i>				
	<i>Year 2011</i>	<i>Year 2012</i>	<i>Year 2013</i>	<i>Year 2014</i>	<i>Year 2015 (January to September)</i>
MCHCs and other specialties (DH)	4 841	4 991	5 132	5 731	4 711
Paediatricians, Out-Patient Clinics and other specialties (HA)	1 119	1 264	1 226	1 344	961
Doctors in private practice	2 056	2 012	1 859	1 844	1 122
Psychologists (including the HA, Education Bureau, Social Welfare Department, non-governmental organizations and private psychologists)	214	312	424	548	401
Others	246	194	134	27	15
Total	8 476	8 773	8 775	9 494	7 210

In the past five years, nearly all new cases were seen within three weeks after registration. CAS has adopted a triage system to ensure that children with urgent and more serious conditions are accorded with higher priority in assessment with a view to enhancing service efficiency. The actual waiting time depends on the complexity and conditions of individual cases. In the period from 2011 to 2014, assessments for over 80% of newly registered cases were completed within six months. Further breakdown of the above figures by children's age or by Child Assessment Centre is however not available.

- (2) The civil service establishment of CAS as at 1 October 2015 was as follows:

<i>Grades</i>	<i>Number of posts</i>
<i>Medical Support</i>	
Consultant	1
Senior Medical and Health Officer/Medical and Health Officer	16
<i>Nursing Support</i>	
Senior Nursing Officer/Nursing Officer/Registered Nurse	27
<i>Professional Support</i>	
Scientific Officer (Medical) (Audiology Stream)/(Public Health Stream)	5
Senior Clinical Psychologist/Clinical Psychologist	17
Occupational Therapist I	7
Physiotherapist I	5
Optometrist	2
Speech Therapist	12
<i>Technical Support</i>	
Electrical Technician	2
<i>Administrative and General Support</i>	
Executive Officer I	1
Hospital Administrator II	1
Clerical Officer/Assistant Clerical Officer	11
Clerical Assistant	17
Office Assistant	2
Personal Secretary I	1
Workman II	11
Total	138

In view that the demand for services provided by the CAS has surged continuously, the Government has allocated funding for 2015-2016 and onwards for the conversion of 10 non-civil-service contract (NCSC) posts to civil service posts in order to strengthen the manpower support and enhance the service capacity to meet the rising number of referred cases. Among the abovementioned 10 NCSC posts, two NCSC posts of Speech Therapist have already been converted to civil service posts, which have already been included in the civil service establishment table above. The other

eight NCSC posts would be converted to civil service posts of Medical and Health Officers (four posts) and Clinical Psychologists (four posts) in due course. Recruitment of these posts is underway.

In addition, CAS has adopted a triage system to ensure that children with urgent and more serious conditions are accorded with higher priority in assessment with a view to enhancing service efficiency. It is expected that, with strengthened manpower, CAS will be able to complete assessments for at least 90% of the newly referred cases within six months.

- (3) The numbers of newly diagnosed cases of developmental conditions in CAS from 2011 to 2014 are as follows:

<i>Number of newly diagnosed conditions</i>	<i>Number of cases</i>			
	<i>Year 2011</i>	<i>Year 2012</i>	<i>Year 2013</i>	<i>Year 2014</i>
Attention Problems/Disorders	2 234	2 182	2 325	2 541
Autistic Spectrum Disorder	1 607	1 567	1 478	1 720
Borderline Developmental Delay	1 891	1 891	1 915	2 073
Developmental Motor Co-ordination Problems/Disorders	2 019	1 744	1 928	1 849
Dyslexia and Mathematics Learning Disorder	628	518	482	535
Hearing Loss (Moderate to profound grade)	97	97	88	109
Language Delay/Disorders and Speech Problems	2 647	2 764	3 098	3 308
Physical Impairment (that is, Cerebral Palsy)	46	47	55	41
Significant Developmental Delay/Mental Retardation	1 175	1 036	1 213	1 252
Visual Impairment (Blind or Low Vision)	30	41	41	36

Note :

A child might have been diagnosed with more than one developmental disability/problem.

The DH does not have statistic regarding the above cases as a percentage of the children population in Hong Kong.

- (4) The CAS provides comprehensive assessment and diagnosis for children under 12 years of age who are suspected to have developmental problems. After assessment, follow-up plans will be formulated according to the individual needs of children. Children will be referred to other appropriate service providers for training and education support. While children await rehabilitation services, CAS will provide interim support to their parents, such as seminars, workshops and practical training, and so on, with a view to enhancing the parents' understanding of their children and community resources so that home-based training would be provided to facilitate the development and growth of the children.

The HA has a multi-disciplinary team of paramedical professionals, which provides early identification, assessment and treatment for children and youths with needs (including children with specific learning difficulties and behavioural problems). The HA has put in place an established triage system for new cases at child and adolescent psychiatric specialist out-patient (SOP) clinics to ensure that patients with urgent healthcare needs are given medical attention within a reasonable time. New cases received at psychiatric SOP clinics will be triaged into priority 1 (urgent), priority 2 (semi-urgent) and routine (stable) cases according to their severity and urgency to ensure that more urgent and severe cases are followed up promptly. The HA seeks to keep the median waiting time for first appointment at psychiatric SOP clinics for priority 1 and priority 2 cases within two and eight weeks respectively. This performance pledge has been fulfilled. The waiting time for new cases in non-urgent and stable condition is relatively longer as more patients are under this category. In 2012-2013, 2013-2014 and 2014-2015, the median waiting time for new cases in stable condition at child and adolescent psychiatric SOP clinics were 23, 42 and 56 weeks respectively. The HA does not keep relevant data for 2010-2011 and 2011-2012. If a patient's mental condition deteriorates before the appointment, he or she may request the psychiatric SOP clinic concerned for re-assessment to determine

whether his/her original appointment should be advanced. The patient may also consider seeking medical treatment from the emergency and accident department.

Comprising child psychiatrists, paediatricians, clinical psychologists, nurses, speech therapists and occupational therapists, the HA's multi-disciplinary team will provide a series of appropriate treatment and training, including hospitalization, out-patient services, day-time rehabilitation training, as well as community support services, according to the severity of the condition of children and youths, with a view to enhancing their ability in communication, socialization, emotion management, problem solving, learning and life skills. Knowledge about the diseases is also provided to the parents and carers concerned in order to enhance their understanding of the symptoms and treatment needs of the patients. At the same time, the HA's professional team maintains close liaison with related organizations, such as early training centres or schools, to provide appropriate support according to the development needs of the children and youths.

Pre-school children (aged six or below) diagnosed to have special needs are referred to receive pre-school rehabilitation services provided by the Social Welfare Department. The average waiting time for pre-school rehabilitation services in the past five years is set out as follows:

<i>Year</i>	<i>Average waiting time (month)</i>
2010-2011	10 to 14.9
2011-2012	12.2 to 16.8
2012-2013	12.7 to 16.9
2013-2014	14.1 to 19
2014-2015	13 to 19.6

The Government will continue to increase the provision of pre-school rehabilitation places. Sites have been reserved by the current-term Government to provide about 1 470 additional pre-school rehabilitation places. Moreover, it is expected that

3 800 additional places will be offered through the Special Scheme on Privately Owned Sites for Welfare Uses. The Government is also taking forward the Pilot Scheme on On-site Pre-school Rehabilitation Services. Non-governmental organizations are invited to provide on-site pre-school rehabilitation services in kindergartens and kindergarten-cum-child care centres. Programmes under the pilot scheme commenced service from November onwards, providing a total of more than 2 900 places. Furthermore, the Government provides a training subsidy for children on the waiting list from low-income families and in need of rehabilitation services to enable them to receive non-subsided rehabilitation services.

For school-age children, Education Bureau has been providing schools with additional resources, professional support and teacher training to help them cater for students with special educational needs. Schools may pool together and deploy their resources flexibly to provide support services for the students based on their needs, including employing additional teachers/teaching assistants and hiring professional services such as speech therapy and other specialist services. There is no need for students to wait for the services.

Employment of Information Technology Staff by Government

15. **MR CHARLES PETER MOK** (in Chinese): *President, currently, various policy bureaux/government departments (B/Ds) may employ information technology (IT) staff to fill posts under the civil service establishment, or they may, through the "body-shopping" contract (T-contract) centrally managed by the Office of the Government Chief Information Officer, engage contractors to employ IT contract staff under a term contract (T-contract staff) for the implementation and support of IT systems. In this connection, will the Government inform this Council:*

- (1) *of the following figures of various B/Ds from 2005-2006 to the first half of this year:*

- (i) *the total number of IT staff in the civil service establishment (and set out a breakdown by rank in the table below) and the total number of vacancies of such types of posts in each year; and*

<i>Year</i>	<i>Number of IT staff</i>			<i>No. of vacancies</i>
	<i>Chief Systems Manager, Senior Systems Manager, and Systems Manager</i>	<i>Analyst/ Programmer I</i>	<i>Analyst/ Programmer II</i>	
<i>First half of 2015-2016</i>				
<i>2014-2015</i>				
<i>2013-2014</i>				
<i>.</i>				
<i>.</i>				
<i>.</i>				
<i>2005-2006</i>				

- (ii) *the annual total number of IT staff who are non-civil service contract staff, and set out a breakdown by their years of service (i.e. over nine years, over six years to nine years, over four years to six years, and four years or below) in the table below;*

<i>Year</i>	<i>Over nine years</i>	<i>Over six years to nine years</i>	<i>Over four years to six years</i>	<i>Four years or below</i>
<i>First half of 2015-2016</i>				
<i>2014-2015</i>				
<i>2013-2014</i>				

<i>Year</i>	<i>Over nine years</i>	<i>Over six years to nine years</i>	<i>Over four years to six years</i>	<i>Four years or below</i>
.				
.				
.				
2005-2006				

- (2) *of (i) the total number of T-contract staff, (ii) the year-on-year rate of change of such figure, (iii) the total expenditure on T-contract, and (iv) the year-on-year rate of change of such amount, in each year from 2005-2006 to the first half of this year (set out in the table below);*

<i>Year</i>	<i>(i)</i>	<i>(ii) (Percentage)</i>	<i>(iii) (HK\$)</i>	<i>(iv) (Percentage)</i>
<i>First half of 2015-2016</i>				
<i>2014-2015</i>				
<i>2013-2014</i>				
.				
.				
.				
2005-2006				

- (3) *of the respective estimated numbers of vacancies of the civil service posts and non-civil service contract posts in the Analyst/Programmer grade, and the estimated number of T-contract staff whose duties are similar to that of such grade, in each of the coming three years; and*
- (4) *whether it will comprehensively review the long-term manpower needs of various B/Ds for the services of IT staff, and convert T-contract posts with long-term needs to civil service posts so as to support the manpower resources development in the IT sector; if it will, of the details; if not, the reasons for that?*

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

- (1) (i) The numbers of information technology (IT) staff in the civil service establishment and the total numbers of vacancies of such staff in various policy bureaux and government departments (B/Ds) from 2005 to 30 June 2015 are tabulated below:

<i>As at</i>	<i>Number of IT Staff</i>			<i>Number of Vacancies*</i>
	<i>Chief Systems Manager, Senior Systems Manager, and Systems Manager</i>	<i>Analyst/ Programmer I</i>	<i>Analyst/ Programmer II</i>	
30 June 2015	267	391	244	59
31 December 2014	269	391	241	43
31 December 2013	267	342	230	49
31 December 2012	250	351	206	55
31 December 2011	249	362	147	62
31 December 2010	243	343	148	61
31 December 2009	228	341	141	65
31 December 2008	230	317	155	54
31 December 2007	212	317	179	30
31 December 2006	215	311	187	31
31 December 2005	209	319	187	37

Note:

- * The numbers of vacancies include those of permanent posts, time-limited posts and supernumerary posts.

- (ii) The numbers of full-time⁽¹⁾ non-civil service contract (NCSC) staff who provide IT support to various B/Ds from 2005 to 30 June 2015 are tabulated below:

- (1) "Full-time" means the employment is on a "continuous contract" as defined by the Employment Ordinance, namely an employee who works continuously for the same employer for four weeks or more, with at least 18 hours in each week.

<i>As at</i>	<i>Total Number</i>
30 June 2015	439
31 December 2014	471
31 December 2013	523
31 December 2012	585
31 December 2011	632
31 December 2010	678
31 December 2009	663
31 December 2008	606
31 December 2007	642
31 December 2006	715
31 December 2005	681

The Civil Service Bureau has not collected information on the breakdown by years of service regarding the aforesaid NCSC staff.

- (2) The total numbers of staff engaged by B/Ds through T-contractors (commonly known as "T-contract staff"), and the year-on-year rate of change of such figures from 2005 to 30 June 2015 are tabulated below:

<i>As at</i>	<i>Total Number</i>	<i>Rate of Change</i>
30 June 2015	2 455	+2%
31 December 2014	2 406	+11%
31 December 2013	2 165	+4%
31 December 2012	2 074	+14%
31 December 2011	1 815	+12%
31 December 2010	1 626	+10%
31 December 2009	1 482	+16%
31 December 2008	1 276	+11%
31 December 2007	1 148	+25%
31 December 2006	922	+16%
31 December 2005	796	-

As regards the annual total expenditure on T-contracts of B/Ds, we have not collected related information.

(3) and (4)

According to the current information on natural wastage of staff, creation of new posts and deletion of time-limited posts in the Analyst/Programmer grade, the projected numbers of vacancies of the civil service posts in this grade in the coming three years are tabulated below:

<i>As at</i>	<i>Projected Number of Vacancies</i>
31 December 2016	73
31 December 2017	85
31 December 2018	78

The projected numbers of vacancies mentioned above do not include the number of staff in the grade to be recruited annually to fill the vacancies of permanent posts, and the actual number of civil service posts to be created annually by B/Ds.

B/Ds will conduct annual reviews on manpower needs in the light of their business requirements. In the IT area, B/Ds may consider deploying civil service IT staff to take up the duties, or engaging NCSC staff and T-contract IT staff to complement the IT manpower required based on the job nature and requirements as well as the actual resource allocation. In view of the above reasons, it is impossible for B/Ds to estimate the numbers of vacancies of NCSC staff and the numbers of T-contract staff in the coming three years.

At present, B/Ds may bid additional resources in the annual Resource Allocation Exercise to create relevant civil service posts to meet long-term service needs.

MTR Fares for Students

16. **MR GARY FAN** (in Chinese): *President, at present, students aged between 12 and 25 who are currently enrolled on a full-time day course offered by a recognized institution may apply for Personalized Octopus encoded with "Student Status" (student Octopus) to enjoy fare concessions when travelling on MTR. On the other hand, in 2008, the MTR Corporation Limited (MTRCL) ceased to offer single journey fare concessions to students, and the current concessionary single journey tickets are to be used only by children aged three to 11 and senior citizens aged 65 or above. I have learnt that recently, when a secondary school student who forgot to carry his student Octopus used a concessionary single journey ticket, which charged a fare comparable to that charged for using a student Octopus, to ride on MTR, he was caught by a staff member of MTRCL. A surcharge of \$500 was imposed on him for contravening the Mass Transit Railway By-laws (Cap. 556 sub. leg. B) (Bylaws). In this connection, will the Government inform this Council:*

- (1) *whether it knows, in each of the past five years, (i) the respective numbers of verbal and written warnings issued to passengers who failed to produce a valid ticket, (ii) the number of cases in which passengers failing to produce a valid ticket were convicted and the general penalties imposed on them, and (iii) among the cases in which warnings were issued and the conviction cases, the respective numbers of those involving the use of concessionary single journey tickets;*
- (2) *given that the fare for riding on MTR using a concessionary single journey ticket is generally higher than that for taking the same journey using a student Octopus, whether it knows the criteria adopted by MTRCL for determining the fare difference and the surcharges to be imposed on passengers for contravening the Bylaws;*
- (3) *whether it knows if MTRCL will issue guidelines to its frontline staff members to stipulate that when dealing with contravention cases involving the use of concessionary single journey tickets, they may*

exercise discretion to only issue verbal or written warnings to passengers who have contravened the Bylaws and put the incidents on record based on the merits of individual cases, instead of imposing surcharges on or instituting prosecutions against such persons;

- (4) whether it knows the means by which MTRCL publicized in the past five years the restrictions on the use of concessionary single journey tickets; whether MTRCL will step up its publicity efforts to enable the public to have a clear understanding of such restrictions; and*
- (5) as some members of the public consider that the different fares currently payable by students using student Octopus and by those using single journey tickets are prone to cause confusion, whether the Government will urge MTRCL to reinstate the previous practice of permitting passengers holding valid student cards to use single journey tickets with fare concessions?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, the MTR Corporation Limited (MTRCL) offers a wide range of fare concessions and promotional schemes to benefit different sectors of the community. These include interchange discounts, Monthly Pass Extras/Day Pass, concessions for the elderly, children, eligible students and persons with disabilities, and so on. According to the MTRCL, an average of about 500 000 passenger trips per day are enjoying the student concessionary fares in the MTR network under the MTR Student Travel Scheme (the Scheme). In 2014, the fare concessions enjoyed by students amounted to about \$0.7 billion.

As early as in 1981, the pre-merger MTRCL began offering fare concessions of about 50% discount to eligible students aged between 12 and 25 who enrolled on a full-time day course offered by a recognized institution in Hong Kong. At that time, eligible students might apply for an "MTR Student Travel Card" every school year and with the possession of this card might use a concessionary single journey ticket or a Student Common Stored Value Ticket to travel on MTR. The then concessionary fare for students was the same as that

for the elderly and children, which was about half the fare for adults. In 2002, the MTRCL ceased to issue the "MTR Student Travel Card" and introduced in its place a Personalized Octopus card encoded with "Student Status" (student Octopus card) for identification purpose to continue to offer concessionary fare to eligible students.

The former Kowloon-Canton Railway Corporation (KCRC) did not offer concessionary fares to students before the rail merger. After the rail merger, the MTRCL extended the student concessionary fares to the pre-merger KCR network on 28 September 2008 so that the Scheme was made applicable to the entire MTR network⁽¹⁾. On the same day, the MTRCL stipulated that the concessionary single journey tickets would only be available for children aged three to 11 and senior citizens aged 65 or above. Students aged 12 or above must use a Personalized Octopus card with "Student Status" if they wish to enjoy fare concessions; if they purchase and use a single journey ticket, fare would be charged at the adult fare level. For the convenience of students who only carry a small amount of cash with them, the minimum add-value amount of a student Octopus card is \$10 while that for an ordinary adult octopus card is \$50.

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

- (1) Under bylaw 10 of the Mass Transit Railway By-laws (By-laws), all tickets issued by the MTRCL are issued subject to the By-laws and the conditions of issue. Bylaw 15(1)(d) of the By-laws stipulates that if a person holds a concessionary ticket and does not meet any of the conditions upon which the ticket is issued shall be regarded as not having paid his fare and shall be liable both to pay a surcharge and to deliver up his ticket to an MTR official. According to the Conditions of Issue of Tickets of the MTRCL, a passenger must produce any ticket for inspection at any time upon demand by any official of the Corporation. For the purpose of determining a passenger's entitlement to usage of a particular category of ticket, the

(1) The objective of the Scheme is to make it more convenient for local students to travel to and from school within Hong Kong, as well as to encourage them to use the MTR to take part in more extra-curricular activities. As such, the student fare concession has not been applicable to cross-boundary train service (including cross-boundary journeys to/from Lo Wu and Lok Ma Chau stations, East Rail Line First Class, MTR Feeder Bus and Airport Express).

Corporation may require the passenger to produce satisfactory proof of identity or evidence of entitlement. Any person who contravenes the above stipulations can be regarded as not having paid his fare and is liable to pay a surcharge at \$500.

MTR station staff and Ticket Inspection Unit staff perform ticket inspection work within the MTR areas from time to time every day. Any passenger found to have breached the By-laws will be requested to pay a surcharge. In general, only when the passenger refuses to pay the surcharge will the MTRCL consider initiating legal proceedings to collect the same. The statistics relating to the cases of failure to pay fares or travelling without a valid ticket in the MTR heavy rail network in the past five years are at the Annex. The MTRCL has not maintained statistics on the verbal warnings issued.

- (2) As mentioned above, the MTRCL has stipulated that the concessionary single journey tickets can only be used by the senior citizens and children. Students aged 12 or above must use a Personalized Octopus card encoded with "Student Status" in order to enjoy concessionary fares for students. As for the calculation of individual fare adjustments, including those for the adult single journey ticket and Octopus, the MTRCL has all along applied the following guiding principles:

- (i) adjustments to Octopus fares are in units of 10 cents; and
- (ii) adjustments to single journey ticket fares are in units of 50 cents (as MTR Ticket Issuing Machines accept coins with value of 50 cents, one dollar, two dollars, five dollars and 10 dollars).

Application of the above fare adjustment principles may lead to differences between the adult fares for the single journey ticket and those for Octopus. The concessionary single journey ticket fares and concessionary Octopus fares, which being about half of the adult fare for single journey tickets and Octopus respectively, may also show discrepancies.

- (3) The MTRCL provides operational guidelines which set out the clauses of the By-laws and procedures to be observed by staff when handling passengers who breach the By-laws. This is to ensure that when enforcing the By-laws, front-line staff will handle cases with fairness based on clear criteria. Generally speaking, for breaches in respect of the use of concessionary single journey tickets, MTRCL staff will in the first instance explain to those found in breach of Bylaws the requirements with which passengers should comply. Depending on individual cases and special circumstances (for example, first-time offenders who are not considered wilfully breaching the By-laws), front-line staff may consider issuing written warnings instead of imposing a surcharge on the passenger immediately. The MTRCL is strengthening its staff training and communication with a view to ensuring that they have even clearer understanding on the operational guidelines when handling special cases.

- (4) and (5)

As mentioned above, the concessions under the Scheme and those for concessionary single journey tickets are not interchangeable. This information has been clearly displayed on Ticket Issuing Machines. The same information also appears on the application form, fare table and leaflet of the Scheme, as well as the MTRCL's website. According to the MTRCL, both the Scheme and the fare arrangements for concessionary single journey tickets have generally been in smooth operation and hence need not be changed. The Corporation will continue to keep the situation in view and conduct a review where necessary.

The Government has been encouraging the MTRCL to review from time to time the effectiveness of fare concession schemes, and introduce suitable ones as far as possible having regard to the principle of financial prudence required of a listed company as the Corporation.

Cases handled by the MTRCL within the MTR heavy rail network
involving failure to pay fares or travelling without valid tickets

	<i>Written warning (cases involving the use of concessionary single journey Tickets)</i>	<i>Levying of surcharge (cases involving the use of concessionary single journey Tickets)</i>	<i>Cases referred to the magistrates' courts on breaches of bylaw 14A[#] of the Mass Transit Railway By-laws</i>	<i>Convicted cases^Δ</i>
2015 (as at 30 June)	10 612 (281)	18 150 (4 017)	106	21
2014	23 702 (1 342)	29 928 (5 323)	236	141
2013	24 856 (3 605)	30 197 (5 995)	345	238
2012	27 687 (4 878)	28 195 (8 776)	497	362
2011	No record	27 581 (9 951)	668	520

Notes:

According to bylaw 14A of the By-laws, no person shall, prior to leaving the paid area, fail or refuse to pay any fare, surcharge or other sum leviable in accordance with these by-laws.

Δ The maximum penalty for breaching bylaw 14A of the By-laws is a fine of \$5,000. The fines imposed upon conviction by a magistracy are usually \$500 to \$1,000.

Regulation of Acts Related to Asbestos and Asbestos-containing Materials

17. **MR TANG KA-PIU** (in Chinese): *President, asbestos is a proven carcinogen. To protect public health, the Government has brought into force the Air Pollution Control (Amendment) Ordinance 2014 (the Amendment Ordinance) since 4 April last year, to completely ban the import, transshipment, supply and use of all forms of asbestos and asbestos-containing materials (collectively referred to as "asbestos") (the regulated acts). Regarding the regulation of the use of asbestos, will the Government inform this Council:*

- (1) *whether the authorities have conducted any inspection in respect of the regulated acts since the Amendment Ordinance came into force; if they have, of the number of cases in which regulations were allegedly contravened (with a tabulated breakdown by the regulated act); whether the authorities instituted prosecutions in respect of such cases; if they did, of the number of cases and the penalties imposed on the convicted persons by the court (with a tabulated breakdown by the regulated act);*
- (2) *whether the authorities have received, since the Amendment Ordinance came into force, any application for exemption to carry out the regulated acts; if they have, of the names of the organizations making the applications, the reasons for applications and the quantity of asbestos involved (with a tabulated breakdown by the regulated act); among such applications, of the number of applications approved by the authorities and the reasons therefor as well as the quantity of asbestos involved (with a tabulated breakdown by the regulated act);*
- (3) *whether the authorities know what Chinese herbal medicines and proprietary Chinese medicines available on the market at present, other than tremolium and actinolium, contain or may contain asbestos; given that the Environmental Protection Department (EPD) has provided to the relevant industries guidelines on the disposal of Chinese herbal medicines and proprietary Chinese medicines containing asbestos, whether EPD knows the disposal situation of the relevant medicines;*
- (4) *given that the authorities have conducted initial asbestos assessments for buildings participating in the Operation Building Bright, and owners' corporations (OCs) and owners of individual units are required to employ registered asbestos consultants and registered asbestos contractors to handle asbestos abatement works when structures with confirmed asbestos-containing materials have been found in the areas where repair items are located, of the number of target buildings for which the authorities have carried out initial asbestos assessments since 2011; of the number of such*

buildings found to have structures with confirmed asbestos-containing materials in the areas where repair items were located; whether the authorities have followed up if the OCs and owners of units of those buildings carried out asbestos abatement works as required by the law; if they have not followed up, the reasons for that;

- (5) *whether there is currently any government building confirmed to have structures with asbestos-containing materials; if so, of the details; whether the authorities have plans to conduct asbestos surveys on government buildings constructed between 1960s and 1980s; if they have such plans, of the details and the specific timetable; if not, the reasons for that; and*
- (6) *given that some workers' groups have pointed out that while all works involving asbestos are presently regulated by the Air Pollution Control Ordinance (Cap. 311) which is enforced by EPD, tasks such as works supervision and labour safety are undertaken by the Labour Department, and this may give rise to confusion over law enforcement (e.g. while a certain industrial undertaking does not carry out work involving the use of asbestos, the equipment or tools used by the workers may contain asbestos, and hence the workers concerned are not sure which department is responsible for monitoring the use of such equipment or tools), whether EPD and the Labour Department have made any coordination effort in respect of the division of law enforcement work and have explained to the workers' groups the arrangements for the division of work between the two departments; if they have, of the details; if not, the reasons for that; whether the authorities conducted investigations in the past three years to find out if the equipment and tools commonly used in the construction industry contain asbestos; if they did, of the outcome?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, in Hong Kong, the carrying out of asbestos-related works and the import, transshipment, sale and use of asbestos containing materials are regulated by the Air Pollution

Control Ordinance (hereinafter referred to as "the Ordinance"). The Ordinance has banned the import and sale of the more hazardous amosite and crocidolite since 1996. To further protect public health, we introduced the Air Pollution Control (Amendment) Ordinance 2014 (hereinafter referred to as "the Amendment Ordinance") to impose, as from 4 April 2014, a total ban on the import, transshipment, supply and use of all forms of asbestos and asbestos containing materials (collectively referred to as "asbestos") except goods in transit, proprietary Chinese medicines registered under the Chinese Medicine Ordinance or individual applications exempted under the Amendment Ordinance.

The specific responses corresponding to the six parts of the question are as follows:

- (1) Since the Amendment Ordinance came into effect, the Environmental Protection Department (EPD) has conducted 89 inspections to check if asbestos goods are supplied or used in the market. Together with the Customs and Excise Department, the EPD has completed 17 joint operations on random inspection of the imported goods at boundary control points. Figures on cases of suspected contravention found by the EPD as at October 2015 are tabulated below:

<i>Regulated Acts under the Amendment Ordinance</i>	<i>Number of Cases</i>
Import	1
Transshipment	1
Supply	1
Use	0

The above cases of suspected contravention are still under investigation. Should there be sufficient evidence, the EPD will take necessary legal action.

- (2) Figures on applications for exemption received by the EPD as at October 2015 and the quantity of asbestos involved are tabulated below:

(i) Applications for exemption on import

<i>Applicant</i>	<i>Number of Cases</i>	<i>Quantity of Asbestos Involved (kg)</i>
Registered asbestos laboratories	14	1.120
Government Laboratory	9	0.288
Labour Department	7	0.840
Total	30	2.248

(ii) Applications for exemption on use

<i>Applicant</i>	<i>Number of Cases</i>	<i>Quantity of Asbestos Involved (kg)</i>
Registered asbestos laboratories	4	1.120
Government Laboratory	2	0.288
Labour Department	2	0.840
Total	8	2.248

The above applications for exemption were all made by laboratories for the purpose of conducting essential regular comparative analyses in order to comply with the accreditation requirements under the Hong Kong Laboratory Accreditation Scheme. The total quantity of asbestos samples imported is very small. Moreover, the laboratories concerned have adopted the required safety measures to ensure the proper packaging and storage of the asbestos samples throughout the transportation process to safeguard public health.

- (3) According to authoritative Chinese medicine references, there are only two Chinese herbal medicines, namely tremolium and actinolium, that contain asbestos.

The EPD has been liaising and working closely with the Department of Health and the Chinese Medicine Council of Hong Kong to explain to the Chinese medicine sector the statutory control over asbestos-containing Chinese medicines under the Amendment Ordinance. The sector is also reminded to dispose of the expired asbestos-containing Chinese medicines in accordance with requirements of the Waste Disposal Ordinance. According to the records of the EPD, about 60 kg of asbestos-containing Chinese medicines have been delivered to the landfills for disposal since the commencement of the Amendment Ordinance.

- (4) The Operation Building Bright (hereinafter referred to as "the Operation") was launched in 2009 by the Government to provide owners of old buildings with subsidies and one-stop technical assistance to carry out repair works to improve building safety. The Operation was closed for application in December 2010.

As the participants of the Operation are old buildings, there is a higher chance that the repair works might involve structures with asbestos containing materials. From January 2011 to October 2015, the EPD carried out initial asbestos surveys for about 1 400 target buildings under the Operation. About 900 of them were found to involve structures of asbestos containing materials, and they mainly involved low-risk corrugated asbestos cement sheets used in canopies. The EPD had issued written notification to the flat owners and owners' corporations of these buildings to remind the owners and those concerned to comply with the statutory requirements in demolishing structures of asbestos containing materials and to take necessary actions accordingly. Notification of commencement of works has to be submitted to the EPD before the demolition of the structures of asbestos containing materials at these buildings. The EPD and the Labour Department (LD) also conduct site inspections to ensure that the asbestos abatement works complies with the requirements of the relevant legislations. According to the records of the EPD, about 50% of the target buildings with asbestos containing materials had already completed their works. The EPD will continue to follow up with the asbestos abatement works on the remaining buildings to safeguard public health and prevent environmental pollution.

- (5) There is a higher chance that asbestos containing materials are found in buildings constructed between 1960s and 1980s, including government buildings. As asbestos containing materials are concealed inside buildings or service installations, they will not affect the general public and the environment as long as they are in good condition and not disturbed. Unnecessary demolition works will in fact increase the risk of spreading asbestos fibres. If there is a need for repairs or demolition works to be conducted in government buildings, the departments concerned must arrange for qualified engineering professionals to conduct asbestos

investigations for the buildings as required under the Ordinance. In case asbestos containing materials are found, asbestos investigation reports must be submitted to the EPD prior to the commencement of asbestos abatement works. As the established asbestos management practices have proven effective, there is no need to separately conduct asbestos investigations for all government buildings. According to the EPD's records, there were around 300 repairs or demolition works involving asbestos abatement works in government buildings over the past five years.

- (6) As for the regulation of the use of asbestos, there is a clear division of roles as well as close co-ordination between the LD and the EPD. The LD is responsible for enforcing the Factories and Industrial Undertakings (Asbestos) Regulation under the Factories and Industrial Undertakings Ordinance to ban work with the use of asbestos in industrial undertakings, and regulate the removal or disposal of asbestos, including asbestos in equipment or tools. The EPD is responsible for regulating the use of asbestos in places other than industrial undertakings.

Regarding law enforcement, the EPD and the LD have established a regular mechanism to share information about asbestos abatement works. To ensure that cases are dealt with in the best practicable manner, designated officers have also been assigned to make direct liaison as necessary to co-ordinate the handling of individual cases and specific regulatory requirements.

To educate the industry on the proper responses to suspected asbestos articles under different circumstances, as well as the common equipment or tools that may contain asbestos, the EPD, the LD and Pneumoconiosis Compensation Fund Board (hereinafter referred to as "the PCFB") have jointly organized various educational workshops and courses for the sector. The "Guidebook for Understanding of Asbestos Containing Materials" has also been published and distributed to construction workers and contractors via various unions and associations of the construction trade. The Guidebook can be downloaded from the website of the PCFB.

Regulation of Use of Industrial Buildings

18. **MR MA FUNG-KWOK** (in Chinese): *President, it has been reported that the Lands Department (LandsD) has recently taken vigorous enforcement actions against cases of industrial building units being used for purposes in breach of the uses prescribed in the land lease provisions (the breaching cases), and has even proceeded to re-enter some of those units. Some art groups currently renting industrial building units have relayed to me that they have received warning letters from LandsD for breaching the uses prescribed in the land lease provisions, and therefore are very worried that they will eventually be required to move out of the units. In this connection, will the Government inform this Council:*

- (1) *of the number of warning letters issued by LandsD in respect of the breaching cases last year, with a breakdown by the breach together with their percentages in the total number of such letters;*
- (2) *of the number of cases last year in which LandsD registered the warning letters issued in respect of the breaching cases at the Land Registry (commonly known as "imposing an encumbrance"), and the number of cases in which LandsD proceeded to re-enter such units, with a breakdown by the breach;*
- (3) *given that currently owners of industrial building units may apply to LandsD for a temporary waiver concerning changes in the use of such units, of the number of such applications received by LandsD in each of the past three years, with a breakdown by the proposed use; among these applications, of the respective numbers of cases approved and rejected by LandsD, as well as the reasons for rejection;*
- (4) *given that as revealed by the 2014 Area Assessment of Industrial Land in the Territory published by the Planning Department in August this year, more and more economic activities and emerging industries are opting for floor space in industrial buildings, examples of which include data centres, cultural/creative art studios, etc., and those activities and industries, which are classified as "Other Uses", currently occupy about 5.1% of industrial floor space and there is an upward trend in that percentage, how the authorities,*

in enforcing the land lease provisions in relation to industrial buildings, will at the same time have regard to promoting economic activities and developing emerging industries, so that the latter can survive in industrial buildings; and

- (5) *given that the Secretary for Development mentioned in his blog in August this year that the authorities would conduct a study to explore, on the premise of satisfying all fire and building safety requirements, further relaxation of the restrictions on non-industrial uses in industrial buildings, of the details of the relevant study (including the timetable for commencing the study); in the course of the study, how the authorities will take on board the views from different stakeholders (including the local art and cultural sector, the sports sector, etc.), so as to enable them to use industrial building units in a sensible, reasonable and lawful manner?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, land leases are private contracts between the Government and the landowners. The landowners are required to ensure that the uses of land are in compliance with the lease conditions. Whether a particular use is in breach of the lease conditions cannot be generalized as it depends on the actual operation of the particular use and the relevant lease conditions of the lot. At present, the lease of most industrial buildings specifies that the lot shall not be used for purposes other than "industrial and/or godown". Under such circumstances, if an industrial building is used for other purposes, it may be in breach of lease conditions unless the owner has applied and obtained approval from the Lands Department (LandsD) for a waiver or change of the user clause, and obtained the relevant planning permission in advance where applicable.

In general, if a breach of lease conditions is confirmed, the LandsD will take appropriate lease enforcement actions, including issuing a warning letter to the owners requiring them to rectify the breach. If the breach is not rectified within a specified period, the LandsD will register the warning letter at the Land Registry, commonly known as "imposing an encumbrance" and, where necessary, take further lease enforcement actions including re-entering the land or vesting the interests of the property in the Government.

The LandsD adopts the same criteria in handling cases of breach of lease conditions in industrial buildings, and has the responsibility to follow up on such cases. When handling situations involving lease breaches, the LandsD allows a certain degree of flexibility where practicable, for example, warning letters are issued in advance and grace periods are allowed before imposing an encumbrance. The more stringent measure of vesting will only be resorted to where necessary. However, if it is found that the use in question not only breaches the lease conditions, but also poses greater safety risks, such as cases involving a higher flow of people (particularly elderly persons and children) in the concerned industrial building, it is necessary for the LandsD to step up enforcement actions, including requiring the owner to rectify the breach within a short period of time. If the owner fails to do so, the LandsD will take prompt and decisive action, including re-entry or vesting.

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

- (1) In 2014, there were a total of 209 cases which the LandsD had issued warning letters to owners of industrial buildings for breach of uses specified in the land lease. The cases included operation of offices, interest classes, workshops, planting activities, showrooms, health centres, property agencies and shops, and so on. The LandsD does not have statistics showing the breakdown of the use of the relevant cases of lease breaches.
- (2) In 2014, there were a total of 105 cases which the LandsD had sent warning letters to the Land Registry for registration because of the owners' failure to rectify the uses in industrial buildings that were in breach of lease conditions upon expiry of the warning letters. The cases included operation of offices, interest classes, workshops, planting activities, showrooms, health centres, property agencies and shops, and so on. The LandsD does not have statistics showing the breakdown of the use of the relevant cases of lease breaches. In the same year, there was no case of property vested in the Government for breach of uses in industrial buildings.
- (3) Owners intending to use their premises in industrial buildings for uses other than those permitted under the lease have to apply to the respective District Lands Office (DLO) of the LandsD for temporary waiver permitting the intended use. In processing the applications,

DLO will consult the relevant departments including the Planning Department (PlanD) and the Fire Services Department, and conduct local consultation through the District Offices where necessary. Generally speaking, the relevant departments will pay attention to whether the intended uses comply with the permitted uses in the outline zoning plans (OZP) and the relevant Ordinances and criteria, including the Fire Services Ordinance (Cap. 95) and its related criteria, so as to ensure compliance with statutory requirements and protection of public safety. Amongst other things, if the intended use does not comply with the requirements of the OZP, DLO will not consider the waiver application. Depending on the comments received from the relevant government departments, DLO will, in the capacity of the landlord, consider whether to issue a waiver to approve the use. If the application is approved, the applicant will have to pay a waiver fee and an administrative fee, and accept other terms stipulated in the waiver.

The LandsD does not compile statistics on a regular basis for cases of application for temporary waiver in industrial buildings. However, the LandsD conducted a one-off survey in end-February 2015. It was found that there were approximately 1 000 valid temporary waivers applicable to premises in industrial buildings.

Moreover, the measures to revitalize industrial buildings have been implemented since 1 April 2010 and the application period will remain open until 31 March 2016. As at end-October 2015, the LandsD received a total of 153 applications for special waivers for wholesale conversion of industrial buildings under the measures, of which 97 cases have been approved. The proposed new uses of the approved applications are mainly hotels, offices, eating places, as well as shops and services, where 25 cases are allowed to be used for "place of recreation, sports or culture".

(4) and (5)

The "2014 Area Assessments of Industrial Land in the Territory" revealed that there has been an increasing trend for "Other Uses" that are non-industrial in nature in existing industrial buildings, such as cultural and creative art studio and data centre, and so on. The

study recommended that, without compromising fire and building safety requirements, feasibility of further allowing flexibility for non-industrial uses could be explored.

The PlanD has completed the review related to "Art Studio" use and proposed that operation of "Art Studio (excluding those involving direct provision of services or goods)" be allowed in existing industrial buildings. Concerned departments have consulted relevant stakeholders including Sub-committee on Visual Arts of the Advisory Committee on Arts Development on the proposal, which was generally supported by the stakeholders. Since early 2015, the Town Planning Board has already made corresponding amendments to Sha Tin, Ma Tau Kok and Tsing Yi OZPs to incorporate the proposal. Similar amendments will also be made to other OZPs when opportunity arises.

At the same time, the PlanD is now consulting concerned departments on the operation requirements and technical feasibility of accommodating some emerging industries (for example, hydroponics and aquaculture) in industrial buildings, so as to explore whether such uses can satisfy all fire and building safety requirements, and be allowed to operate in industrial buildings. Consultation will be conducted by concerned departments in due course.

Supply of Plumbers

19. **DR PRISCILLA LEUNG** (in Chinese): *President, recently, some of the drinking water samples taken from a number of public rental housing estates, private housing estates and schools have been found to have a lead content exceeding the provisional guideline value set out in the World Health Organization's "Guidelines for Drinking-Water Quality". Some members of the construction industry have relayed to me that large-scale replacement works of drinking water mains may need to be carried out for such affected buildings, but the relevant works will inevitably be delayed due to the already acute shortage of plumbers. In this connection, will the Government inform this Council:*

- (1) *of the existing number of licensed plumbers, as well as the respective numbers of registered skilled workers, registered skilled workers (provisional) and registered semi-skilled workers who have registered for the trade of "plumbers" under the Construction Workers Registration Ordinance (Cap. 583);*
- (2) *whether it knows the number of plumber training courses currently offered by various training providers, as well as the projected number of trainees completing such courses in each of the coming eight quarters;*
- (3) *whether it will consider formulating specific measures to increase the supply of plumbers, e.g. by raising the training allowances, increasing the number of places of the training courses, and reviewing the contents of the courses to compress study time, etc., with a view to attracting more people to join the trade; and*
- (4) *whether it has assessed the impact on the progress of the various types of public works projects in the next few years which will be caused by the replacement works of the drinking water mains to be carried out in the aforesaid affected buildings; if it has assessed, of the details?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the Government has all along been attaching great importance to the lead in drinking water incidents. The Task Force on Investigation of Excessive Lead Content in Drinking Water set up by the Development Bureau released its investigation report on 31 October 2015. The Hong Kong Housing Authority has also set up a Review Committee on Quality Assurance Issues Relating to Fresh Water Supply of Public Housing Estates to review the quality control and monitoring in relation to the installation of fresh water supply systems in public rental housing (PRH) estates. Its final report is expected to be completed by the end of this year. The Commission of Inquiry into Excess Lead Found in Drinking Water set up by the Chief Executive-in-Council under section 2 of the Commissions of Inquiry Ordinance (Cap. 86) is conducting hearing on the issue. The Commission is expected to submit its report to the Chief Executive in mid-2016.

When devising long-term improvement measures for plumbing work, the Government will evaluate their impact on the plumbing trade and plumbers, including manpower supply.

My reply to the four parts of Dr LEUNG's question is as follows:

- (1) As at 30 September 2015, there were 2 950 licensed plumbers in Hong Kong. The number of persons registered as plumbers under the Construction Workers Registration Ordinance (Cap. 583) is as follows:

	<i>Number of Persons</i>	<i>Number of Persons Registered as Principal Trade</i>
Registered skilled workers (including provisional ⁽¹⁾)	5 676	3 449
Registered semi-skilled workers (including provisional ⁽²⁾)	2 190	978
Total	7 866	4 427

Notes:

- (1) Senior workers satisfying the requirement of possessing an aggregate of not less than six years' relevant working experience on a trade before 29 December 2005 are eligible for registration as registered skilled workers (provisional). They can be registered as skilled workers after attending specified training course and passing its assessment.
- (2) Workers satisfying the requirement of possessing an aggregate of not less than two years' relevant working experience on a trade before 29 December 2005 are eligible for registration as registered semi-skilled workers (provisional).
- (2) Currently, the Construction Industry Council (CIC) and the Vocational Training Council (VTC) offer six training courses related to plumbers in total. Details are as follows:

The CIC offers four plumber training courses. Three of them are training courses for semi-skilled plumbers, including a regular 1-year basic craft course, a full-time adult short course and a collaborative training programme jointly organized with the industry. The fourth

plumber training course is an 18-month programme for training of semi-skilled plumbers to become skilled plumbers under a pilot scheme of the Advanced Construction Manpower Training Scheme (Structured on-the-job training) launched in September 2015. The numbers of graduates from these courses vary from quarter to quarter. The CIC expects that there will be about 270 trainees⁽¹⁾ graduated from these courses in 2016. As for the number of training places to be offered in 2017, the CIC will determine it in 2016 in the light of the manpower demand.

The VTC offers two plumber training courses. They are a regular 3-year course of Craft Certificate in Plumbing and Pipefitting and a short-term course of Certificate in Plumbing Services (Hong Kong). The VTC estimates that these courses will offer about 400 training places in total each year for 2016 and 2017. Taking into account the drop out of trainees during the courses, the number of graduates will be about 225 in total each year.

- (3) The CIC has increased the number of training places for plumbers from about 240 each year to about 500 each year from 2012 to 2016. To address the problems of labour shortage, acute ageing of workers and difficulties in recruiting trainees, since 2010, the Government have collaborated with the CIC to launch the Enhanced Construction Manpower Training Scheme, which offers enhanced training allowances to attract new entrants. As plumber is one of the trades with manpower shortage, trainees enrolling in the related collaborative training programme can receive a training allowance of \$320 per day, which is higher than that of \$150 per day offered for other regular adult short courses.

The Government has initiated discussion with the CIC on the issues of plumber training in connection with the incident of lead being found in drinking water. We will also discuss to review the training allowances, course contents and numbers of training places for the related training courses as soon as possible to cope with the manpower demand. The Water Supplies Department (WSD) is also discussing with the VTC to enhance training on solder materials in

(1) The course will offer 500 training places in total in 2016, but some trainees will only graduate after 2016. Moreover, the CIC has taken into account the difficulties in recruiting trainees and possible drop-outs in the course of training.

the course for Craft Certificate in Plumbing and Pipefitting and licensed plumber management in the course for Certificate in Plumbing Services (Hong Kong).

- (4) On 24 September 2015, the Housing Department and the WSD completed the systematic water sampling tests for PRH estates completed in or after 2005. Of the 4 740 water samples taken from these PRH estates, 91 samples, or about 2% of the total, from 11 PRH estates were found to have lead content exceeding the guideline value of the World Health Organization (WHO). The Transport and Housing Bureau stated that for these 11 affected PRH estates, replacing of water pipes with soldering containing lead will be the most thorough approach. However, it will cause some degree of inconvenience to about 29 000 households and will also involve a large amount of works. The Government will strive to not affect the progress of public housing construction but cannot preclude the possibility of some minor implications. Indeed, as the progress of tender approval by the Housing Authority has been affected by the recent lead-in-the water incident, the completion dates of individual projects are anticipated to delay for about one to two months.

Meanwhile, the Education Bureau and the WSD have started testing water samples taken from kindergartens by batches since 10 September 2015. Up to 6 November, a total of 1 185 drinking water samples were taken from 780 participating kindergartens. Except for 10 samples taken from the wall-mounted kettles of eight kindergartens, which accounted for 0.8% of the total, all the remaining samples have met the WHO guideline value. Moreover, up to 6 November, 505 drinking water samples were taken from 63 of about 70 participating public sector schools and Direct Subsidy Scheme schools. Except for seven samples taken from one secondary school, which accounted for 1.4% of the total, all the remaining samples met the WHO guideline value.

All in all, the current water test findings show that overwhelming majority of the drinking water samples taken from the inside service systems of different types of buildings meets the WHO guideline value. The Government hopes that the plumbing improvement works that may be required for the affected buildings will not seriously affect the progress of and manpower deployment for other

works. The Government will undertake detailed assessments and strive to minimize the impact through better planning and co-ordination.

Regulation of Companies Listed on Growth Enterprise Market

20. **MR KENNETH LEUNG** (in Chinese): *President, it has been reported that in recent days, there have been unusual movements in the share prices of quite a number of companies listed on the Growth Enterprise Market (GEM) in the early stage of their initial listings, arousing suspicion of manipulations. There are views that the current GEM listing rules permitting the placement of shares by an issuer has resulted in a high concentration of shares in the hands of a few persons and hence manipulation of share prices is prone to occur. In this connection, will the Government inform this Council:*

- (1) *given that Rule 17.11 of the GEM Listing Rules stipulates that where the Stock Exchange of Hong Kong makes enquiries concerning the unusual movements in the prices or trading volume of an issuer's listed securities, the possible development of a false market in the issuer's securities or any other matters, the issuer must respond promptly, and that if the issuer is not aware of any matter that is relevant to the unusual movements in the prices or trading volume of its listed securities or is not aware of any information that needs to be announced for avoidance of a false market, the issuer must promptly make an announcement containing a statement to that effect, whether the Government knows the number of times that the issuers of securities listed on GEM made such announcements under that rule in the past five years, and the number of listed companies involved;*
- (2) *given that the Securities and Futures Commission (SFC) makes announcements from time to time in respect of the concentration of shareholding of listed companies in the hands of a very small number of shareholders, whether the Government knows the number of times that SFC made announcements in respect of the high concentration of the shareholding of GEM listed companies in each of the past five years, and the number of listed companies involved; and*

- (3) *whether it has plans to conduct a comprehensive review of the GEM listing regime, including the criteria for making listing applications as well as vetting and approval of such applications, and the arrangement allowing the placement of securities by issuers; if it has such plans, of the details; if not, the reasons for that?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President, our response to the three parts of the question is as follows.

- (1) The number of unusual price and trading volume movements announcements made under Rule 17.11 of the Rules Governing the Listing of Securities on the Growth Enterprise Market (GEM Listing Rules) as well as the number of companies listed on the Growth Enterprise Market (GEM) that issued such announcements in each of the past five years are as follows:

<i>Year</i>	<i>Number of unusual price and trading volume movements announcements under GEM Rule 17.11 issued by GEM companies</i>	<i>Number of GEM companies that issued unusual price and trading volume movements announcements under GEM Rule 17.11</i>	<i>Number of GEM companies as at the end of the year</i>
2010	18	13	169
2011	26	24	170
2012	17	15	179
2013	34	26	192
2014	36	26	204
2015 (up to 30 September)	54*	39	211

Source of information: The Stock Exchange of Hong Kong (SEHK)

Note:

- * Most of the unusual price and volume movements announcements under GEM Rule 17.11 (43 out of 54) in 2015 were published in the first half of 2015 during which the trading activities were significantly more active than that of the same period in 2014 (average daily turnover of the GEM market in the first half of 2015 was 3.3 times of the same period in 2014). As such, more GEM Rule 17.11 announcements were made in 2015 as compared with 2014.

- (2) The number of announcements made by the Securities and Futures Commission (SFC) in respect of high concentration of the shareholding of GEM companies and the number of GEM companies involved in each of the past five years are as follows:

<i>Year</i>	<i>Number of high concentration announcements issued in respect of GEM companies</i>	<i>Number of GEM companies involved</i>
2010	4	4
2011	1	1
2012	4	4
2013	1	1
2014	7	7
2015 (Up to 29 October)	6	6

Source of information: The SFC

- (3) To ensure that the Listing Rules address developments in the market and represent acceptable standards which help ensure investor confidence, the SEHK reviews the Listing Rules (including those under the GEM regime) from time to time. The Listing Committee (LC) and the SFC are also supplied with periodic reports on the GEM by the Listing Department (LD) covering, amongst other things, salient vetting and listing statistics; general observations on GEM applications; and media commentary. The major reviews on the GEM regime undertaken by the SEHK are set out below.
- (i) The SEHK launched the GEM in November 1999 as a Venture Board for smaller and emerging technology companies' stocks. In January 2006, the SEHK published a discussion paper setting out, for discussion and comment by the market, options for further development of the GEM. As a result of this consultation exercise, the SEHK considered that the proper way forward was to reposition the GEM as a second board, under which the GEM would largely retain its existing structure and be positioned as a stepping stone towards the Main Board.
- (ii) In order to implement the plans to develop the GEM as a second board, the SEHK published in July 2007 a consultation

paper on the GEM setting out a number of proposed changes to the GEM Listing Rules. The proposed changes mainly aimed to codify the existing practice on the GEM and to streamline procedures. Specifically, issuers would be allowed more flexibility in the choice of the offering mechanism (including 100% placing) but they have to comply with new admission requirements including minimum public float of at least 25% of total issued share capital⁽¹⁾ and an expected market capitalization in public hands of HK\$30 million at the time of listing, as well as minimum shareholder spread of 100 public shareholders and not more than 50% owned by the three largest public shareholders. Consultation conclusions were published in May 2008 and the revamped GEM Listing Rules came into effect on 1 July 2008.

- (iii) The SEHK conducted a review of the procedural matters of the listing process, including the delegated approval process, for GEM applications in 2014 and published the details in the Listing Committee Report 2014 available on the website of the Hong Kong Exchanges and Clearing Limited. In summary, in May 2014, the LC considered it unnecessary to change the current delegation of the GEM listing approval to the LD. However, the LC requested the LD to provide, in its future periodic reports on the GEM, the types of issues the LD faced during the vetting of GEM applications. The LC also considered that the new sponsor regime should be allowed to operate for a period of time before considering the delegated approval process further. In November 2014, the LC considered a periodic report on the GEM and re-considered the delegation of the GEM listing approval — it expressed support for reviewing the delegation in due course. The LC also requested that GEM cases involving more complex issues should be brought to the LC for guidance. The SEHK will continue to monitor the operation and development of the GEM.

It should be noted that approval of the SFC is required for any Listing Rule amendments proposed by the SEHK.

(1) Subject to adjustment to between 15% and 25% in the case of listing applicants with a market capital of more than HK\$10 billion.

Use of Teacher Relief Grant

21. **MR IP KIN-YUEN** (in Chinese): *President, at present, the Government provides an annual recurrent cash grant known as the Teacher Relief Grant (TRG) to aided schools established with an incorporated management committee (IMC) for hiring supply teachers. However, some members of IMCs have relayed to me that as the amount of the Grant is often insufficient to meet the actual demand or deployed for other purposes, teachers who have fallen ill refrain from taking sick leave and continue to work, which has exerted immense pressure on both the schools and the teachers, and the learning progress of students has been affected as well. In this connection, will the Government inform this Council:*

- (1) *whether it knows, in the past three years, of (i) the total number of days of approved leave lasting for less than 30 days taken by teachers of aided schools over the territory, (ii) the total number of days of approved leave lasting for 30 days or more taken by teachers of aided schools over the territory, and (iii) the total number of days in which supply teachers were hired by those schools (broken down by category of leave);*
- (2) *whether it knows the amount and percentage of the aforesaid Grant deployed for purposes other than hiring supply teachers in the past three years, with a breakdown by purpose; and*
- (3) *given that a teacher has told me that he took more than 20 days of sick leave but his school did not hire any supply teacher, and he was asked to make up for the missed lessons during his absence (more than 100 lessons in total) after resuming duty, which had exerted tremendous pressure on the teacher, whether the Education Bureau (EDB) is aware of that kind of incidents; and in this regard (i) what improvement measures EDB will implement, and (ii) whether EDB will consider allowing schools to choose, on their own, either to claim reimbursement of expenses of hiring supply teachers on an accountable basis or making use of TRG to hire supply teachers; if EDB will not, of the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President, before the establishment of incorporated management committees (IMCs), aided schools may claim reimbursement from the Education Bureau on a case-by-case basis for the appointment of daily-rated supply teachers to replace teachers on the establishment who have been approved to take leave for three days or more.

To tie in with the implementation of school-based management and to simplify the administrative procedures for the appointment of supply teachers, the Teacher Relief Grant (TRG) has been given by the Education Bureau to schools with IMCs to provide them with flexibility in deploying their resources to enhance the quality of education effectively. These schools are no longer required to apply for reimbursement on a case-by-case basis for the appointment of daily-rated supply teachers. However, if teachers take approved leave for 30 days or more or paternity leave for three consecutive days or more, schools may still apply for reimbursement from the Education Bureau for the appointment of supply teachers. In case the TRG runs into deficit, schools may use the Expanded Operating Expenses Block Grant (EOEBG) to top up the TRG. Individual schools with financial difficulties may approach the Education Bureau, which will provide assistance and take follow-up actions as appropriate, taking into account the specific circumstances of the schools.

Regarding Mr IP's question on the TRG and the appointment of supply teachers, my reply is as follows:

- (1) Under the existing policy, IMCs of aided schools may grant sick leave to teachers in accordance with the provisions under the Code of Aid, the Employment Ordinance and the instructions issued by the Permanent Secretary for Education from time to time. We have not collated statistics by category on the number of days of leave, including sick leave, taken by all aided school teachers and the total number of days which supply teachers have been appointed by all aided schools.
- (2) The TRG includes two components, namely, an annual recurrent cash grant and an optional cash grant. While the former is for schools to appoint daily-rated supply teachers on a short-term basis according to their needs, the latter is for schools which opt to freeze no more than 10% of their teaching establishment to employ

additional teachers or other supporting staff, provide staff training or procure education-related services, and so on, after seeking the consent of the IMCs, the majority of teachers and parents. Schools may combine and use the two components of the TRG flexibly having regard to their needs, and are not required to report the deployment of the Grant to the Education Bureau. Information in this respect is, therefore, not available.

- (3) With regard to the incident where a teacher claimed that no supply teacher was appointed during his more than 20 days of sick leave and he was asked to provide make-up lessons upon his resumption of duty, we are not able to verify or comment on the case as relevant information is insufficient. If a complaint or request for assistance on the case is received, we will look into it and take follow-up actions.

The IMCs of aided schools should establish a school-based mechanism for processing leave applications from teachers. All along, the Education Bureau has been reminding schools through various channels that they should consult their staff members when establishing the school-based mechanism. Policies and principles on processing leave applications, arrangements for teaching and other duties of teachers on leave and arrangements for make-up lessons upon their resumption of duty should be properly formulated to ensure that such arrangements are fair and reasonable, and are able to protect the entitlements of teachers without compromising students' learning.

The Education Bureau has been keeping in view the implementation of the TRG. To our knowledge, most schools do not have any adverse comments on the current arrangement for the TRG. According to the latest (that is, 2013-2014 school year) financial statements submitted by schools, only two IMC schools ran into deficit in respect of their TRG accounts and they were able to deploy the surplus of the EOEBG to cover the related expenses. In this regard, there is no justification to change the current arrangement.

Prevention of Alien Species' Invasion of Hong Kong's Natural Environment

22. **MR CHAN HAK-KAN** (in Chinese): *President, it is learnt that some alien species (such as Red-eared Sliders, White Popinac and Mikania micrantha) have proliferated after they were brought into Hong Kong's natural environment, thereby posing threats to the native species and the local natural environment. However, Hong Kong currently does not have any measure in place to deal with such alien species. On the other hand, to deal with and prevent the invasion of alien species, the United States established her National Invasive Species Council as early as in 1999, while New Zealand proposed her bio-security programme in 2002 and Japan enacted specific legislation in 2005. In this connection, will the Government inform this Council:*

- (1) *whether the Government has currently maintained a detailed database on invasive alien species; if it has, of the details; if not, the reasons for that;*
- (2) *whether the Government conducted on its own or commissioned experts to conduct, in the past 10 years, any assessment and study on the impacts of alien species on the local natural environment; if it did, of the details; if not, the reasons for that;*
- (3) *regarding certain alien species which are known to be posing threats to the local natural environment, whether the Government will make reference to the practices of the aforesaid countries and enact legislation to regulate the import of such species; if it will, of the details; if not, the reasons for that;*
- (4) *given that the 2015 Policy Address mentioned that the Government was formulating the first Biodiversity Strategy and Action Plan of Hong Kong, of the measures under the Plan to prevent and mitigate the impacts of alien species on the local natural environment, so as to maintain the diversity of native species; of the progress of formulating the Plan; and*
- (5) *whether the Government will step up publicity efforts to educate the public not to casually release animals, and to encourage them to*

report to the authorities when they find alien species invading the local natural environment; if it will, of the details; if not, the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (1) The Government is committed to the conservation of Hong Kong's natural environment and biodiversity, and has been soliciting public support to protecting the local natural environment through education and publicity activities and other appropriate measures.

A wide range of species of animals and plants in Hong Kong are introduced from elsewhere. Although a detailed database on invasive alien species is currently not available, the Government has recorded information related to alien species; for instance, Hong Kong currently has over 3 000 plant species, among which about one-third are alien species, including some common fruit trees and ornamental plants. A large number of introduced species have long been naturalized in Hong Kong, and have no significant impact on the local ecology. In fact, many alien species are beneficial to agriculture, horticulture, forestry and aquaculture sectors.

At present, only a few alien species have had an impact on the local ecology and are considered invasive. These known invasive alien species, such as Apple Snail, Red Imported Fire Ant, House Crow, Sonneratia and Mikania, may pose a threat to the local ecology and even have influence to human living. The Government will take control measures in accordance with the actual circumstances to safeguard the local biodiversity.

- (2) The Government has commissioned or funded local research institutions to conduct research projects on alien species, including the research on the characteristics and distribution of Sonneratia in Inner Deep Bay, as well as the research on the ecological impact and control of Apple Snail funded by the Environment and Conservation Fund.

- (3) At present, the Government has put in place measures to regulate the import of animals and plants for the purpose of pest control, quarantine and prevention of disease. As mentioned above, most of the alien species do not pose adverse effect to the local ecology. In this connection, the Government focuses its work on controlling the known invasive alien species to prevent them from further proliferation, and will continue to monitor the situation by conducting the Biodiversity Survey. Nevertheless, if certain species are discovered to be potentially invasive, further investigations and control measures will be initiated accordingly.

The existing measures implemented to control the invasive alien species mainly include:

- regular inspection of country parks, special areas and sites of special scientific interest conducted by the Agriculture, Fisheries and Conservation Department (AFCD) for the control of proliferation of Mikania. Once Mikania is found in the above areas, the AFCD will arrange for removal;
- removal of the two alien species of Sonneratia from the mudflat and intertidal mangroves in Inner Deep Bay in order to prevent them from having potential impacts on the native mangrove; and
- preventive measures to reduce the potential impacts caused by House Crows; control of House Crow population by baiting and removing their nests; and at the same time, monitoring of the number and distribution of House Crows to minimize the potential impacts caused by them on the local environment.

As for whether there is a need to implement more import control on alien species as preventive measures for the introduction of invasive alien species, the Government will handle the issue in a prudent manner. On one hand, we have to assess the impact on the local ecology and the effectiveness of the existing control measures. On

the other hand, we have to consider the potential impact of introducing other legislative regulations on the society and the economy, as well as the relevant requirements of international trade.

- (4) When preparing the first Biodiversity Strategy and Action Plan (BSAP) for Hong Kong, there were calls for concern on the invasive alien species. It was suggested that the Government, apart from continuing the implementation of the existing control measures, should carry out a comprehensive review on the current situation of the alien species in Hong Kong and collect information about the pathways of introduction and the risks to the local ecology. Besides, some suggested strengthening the monitoring and regulation of some invasive alien species. The Government is considering these suggestions, and will consult the public on the BSAP.

- (5) Release of animals into the wild not only affects the equilibrium of local ecosystems but is also detrimental to animal welfare and may spread disease. Therefore, such activity is discouraged by the AFCD. The AFCD has set up 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, and appeal to the public not to abandon their pets. Apart from producing announcements in the public interest on television and radio, the AFCD places advertisements on different platforms, organizing promotional events and publicity projects to promote the message.

The AFCD has been reminding the public not to feed wild birds or House Crows through public education in order not to encourage the breeding and spreading of House Crows.

The AFCD will continue to monitor the situation and consolidate our efforts in public education with a view to safeguarding animal health and welfare as well as the local ecosystem.

BILL**First Reading of Bill**

PRESIDENT (in Cantonese): Bill: First Reading.

PATENTS (AMENDMENT) BILL 2015

CLERK (in Cantonese): Patents (Amendment) Bill 2015.

Bill read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.

Second Reading of Bill

PRESIDENT (in Cantonese): Bill: Second Reading.

PATENTS (AMENDMENT) BILL 2015

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I move the Second Reading of the Patents (Amendment) Bill 2015 (the Bill) to provide for the legal framework for implementing the new patent system in Hong Kong.

To ensure that the local patent system would meet present-day circumstances, the Government commenced a review of the local patent system in October 2011. A three-month public consultation exercise was launched and the Advisory Committee on Review of the Patent System in Hong Kong (Advisory Committee) was set up.

Having carefully examined public views and the relevant circumstances, the Advisory Committee recommended that a new patent system be introduced into Hong Kong. The Government accepted the recommendation in February 2013, and has been taking forward preparatory work. Our introduction of the Bill to the Legislative Council today marks an important milestone for the implementation of the recommendation of the Advisory Committee.

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

Let me give an explanation on the key proposals of the Bill now.

- (1) Introducing an "original grant patent" (OGP) route for granting standard patents

The Bill proposes to set up an OGP system, under which standard patents will be granted whilst retaining the current "re-registration" system. From the users' perspective, while they may file their applications for a standard patent directly in Hong Kong in the future, it would not be necessary for them to first obtain a patent from a designated patent office outside Hong Kong.

As Hong Kong is currently yet to possess indigenous capacity for conducting substantive examination, the Intellectual Property Department (IPD) entered into a co-operative arrangement with the State Intellectual Property Office (SIPO) in December 2013, under which the SIPO will provide technical assistance and support to the IPD in conducting substantive examination and manpower training. Depending on the users' acceptance of the new patent system and their filing demands, the IPD plans to develop in incremental stages in-house capacity in conducting indigenous substantive examination in the medium to long term.

- (2) Refining the short-term patent system

The Bill also proposes that the short-term patent system be refined, which includes the introduction of new provisions into the Patents Ordinance to lay down the procedural framework for substantive examination of short-term patents and set out the prerequisites for a short-term patent owner to commence enforcement action. The Bill will amend the provisions on groundless threats of proceedings, and increase the maximum number of independent claims that a short-term patent application may contain.

- (3) Implementing an interim measure for regulating local patent practitioners pending establishment of a full-fledged regulatory regime

A prime objective to regulate local patent practitioners is to nurture a patent profession for complementing the implementation of the new patent system. We propose to implement an interim measure pending the establishment of a full-fledged regulatory regime for the long run. The Bill provides that it is an offence to use certain specific titles which may likely be conferred on qualified patent practitioners exclusively under the future full-fledged regulatory regime, as well as any other title that would quite likely give the impression that a person's qualification for providing patent agency services in Hong Kong is endorsed by the Government or recognized by law. Appropriate exemption will be provided in the Bill, such that legitimate and reasonable use of professional titles can be continued in Hong Kong.

Deputy President, in drafting the Bill, we have made reference to the patent systems, practices and procedures generally established in the international community, as well as several major regional and international patent treaties. We have also taken into account the valuable views of the Advisory Committee and local professional bodies.

On top of the Bill, we are preparing other implementation tasks, including preparing proposals for subsidiary legislation to be made under the Bill, drawing up examination guidelines, designing workflows, and planning for the setting up of a new electronic system in support. Subject to the progress of the legislative exercise and other preparatory tasks, we hope the new patent system can be implemented in 2017 at the earliest.

Deputy President, a robust intellectual property regime is the cornerstone for promoting innovation and growth in a knowledge-based economy. Reforming the local patent system bears strategic significance in facilitating the development of Hong Kong into a regional innovation and technology hub as well as an intellectual property trading hub, which will bring about substantial economic benefits. I implore Members to support the Bill for its early passage by the Legislative Council.

Deputy President, I so submit. Thank you.

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Patents (Amendment) Bill 2015 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

MEMBERS' MOTIONS

DEPUTY PRESIDENT (in Cantonese): Member's motion. Debate on a motion with no legislative effect. This Council will now continue the debate on the motion on "Extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive".

I now call upon the Chief Secretary for Administration to speak.

EXTENDING THE APPLICATION OF SECTIONS 3 AND 8 OF THE PREVENTION OF BRIBERY ORDINANCE TO THE CHIEF EXECUTIVE

(Mr LEUNG Kwok-hung stood up)

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung, what is your point?

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, excuse me, there is a specific provision in the Basic Law on the quorum of the Council. I think the relevant provision of the Basic Law is currently not complied with.

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

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

DEPUTY PRESIDENT (in Cantonese): Chief Secretary for Administration, please speak.

Continuation of debate on motion which was moved on 4 November 2015

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, Dr Helena WONG moved a motion last Thursday, and Mr Alan LEONG and Ms Cyd HO have respectively proposed amendments. They are all concerned about when the Government will implement the recommendations in the report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee) to apply sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) to the Chief Executive. Mr TAM Yiu-chung has also proposed an amendment, urging the Government to handle the aforesaid issue in compliance with the constitutional requirements under the Basic Law.

Deputy President, first of all, I would like to reiterate that both the Chief Executive and the SAR Government attach great importance to probity in Hong Kong. Any public officer, including the Chief Executive, must be a person of integrity. As such, the Chief Executive and the SAR Government welcome and adopts an open attitude to any views that are conducive to enhancing integrity in the administration.

I notice that both Dr Helena WONG and Ms Cyd HO have quoted in their speeches the incumbent Chief Executive's remark made in May 2012 in the capacity of the Chief Executive-elect on the report released by the Independent Review Committee. I am going to quote it again. At that time, the Chief Executive-elect said, as I quote, "I welcome this Report. I will consider the various recommendations in the report seriously and seek to implement them as soon as possible after taking office." (End of quote) I can state here that this remains the stance of the Chief Executive and the SAR Government and nothing has been changed.

I could sense the good intention in Mr Alan LEONG in his speech. He said that the purpose of proposing this motion and the amendments is to safeguard the reputation of the Chief Executive and the international image of Hong Kong. I hope that Mr Alan LEONG will also uphold the entirety of the Basic Law and the constitutional status of the Chief Executive.

Mr TAM Yiu-chung's amendment is different from the original motion and the other two amendments in the sense it highlights the core issue of this discussion, which is any amendment to the law must be in compliance with the Basic Law and the constitution. Accordingly, I do not concur with Mr Alan LEONG's criticizing Mr TAM Yiu-chung for waiting or stalling. Members and I had, upon taking office, sworn to uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, among other things. Mr TAM's amendment serves to remind us that in seriously handling the recommendations of the Independent Review Committee to extend the application of sections 3 and 8 of the Ordinance to the Chief Executive, the requirement of the Basic Law must be complied with. I hope that Members will remember the need to uphold the Basic Law when they vote on the original motion and the amendments later.

In fact, regarding the recommendations to extend the application of sections 3 and 8 of the Ordinance the Chief Executive and the establishment of a regime to oversee the Chief Executive's acceptance of advantages, as the requirements of the Basic Law on the political system of the Hong Kong SAR and the constitutional status of the Chief Executive in the Hong Kong SAR are involved, it is advisable to consider relevant constitutional and legal requirements, as well as operational issues in a holistic manner.

Based on the aforesaid principles, the SAR Government is now comprehensively examining the relevant issues in accordance with the constitutional framework established under the Basic Law and the prevailing legal provisions. Upon completion of the study, relevant legislative procedures will be rolled out.

I must stress that at present, there are relevant legislation regulating the integrity of the Chief Executive, the situation of the Chief Executive being unregulated by law does not exist.

Hong Kong is renowned for its stringent anti-corruption mechanism and the Ordinance has all along served its purpose well. Since the enactment of the Ordinance in the early 70s, it has provided important legal basis of the anti-corruption work in Hong Kong. The SAR Government has been committed to combatting corruption and upholding integrity in Hong Kong society, and the Independent Commission Against Corruption (ICAC) has always adhered to the principle of acting in accordance with the law. The ICAC will take follow-up action impartially on anyone who is suspected to have violated the Ordinance, the

Chief Executive is no exception. Legally, there are adequate safeguarding measures to ensure that the ICAC will conduct its investigation independently and impartially, and will perform its mission in fighting corruption and promoting probity.

In discussing this issue, Members in this Chamber certainly have a clear picture. Certain provisions of the existing Ordinance are already applicable to the Chief Executive and we are focusing on discussing sections 3 and 8 today. However, I am afraid the perception and discussion of the general public may have some discrepancies. Some people may think what they have heard is that the Chief Executive is absolutely unregulated by the Ordinance, such as the allegations that the Chief Executive is above the law and is subject to no control. Such allegations are contrary to the facts. In fact, as I have said, under the existing Ordinance, there are some provisions which have effectively regulated the alleged corruption of the Chief Executive. Such provisions include sections 4, 5 and 10 which are applicable to the Chief Executive, regulate bribery acts committed by the Chief Executive, such as soliciting and accepting advantages and possession of unexplained properties. Owing to the importance of this issue, Deputy President, though Mr TAM Yiu-chung had already analysed the provisions that are now applicable to the Chief Executive, please allow me to expound in detail on the contents of those three provisions.

Section 4(2B): if the Chief Executive, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his performing or having performed any act, he shall be guilty of an offence.

Section 5(4): if the Chief Executive, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his giving or using influence, or having given assistance, or used influence in contractual matters, he shall be guilty of an offence.

Section 10(1): any person who, being or having been the Chief Executive, maintains a standard of living above that which is commensurate with his present or past official emoluments; or is in control of pecuniary resources or property disproportionate to his present or past official emoluments shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.

In addition, any provisions in the Ordinance that are bribery-related and applicable to anyone are also applicable to the Chief Executive. As such, the Ordinance has regulated the acts of the Chief Executive.

On the other hand, the Ordinance not only have provisions regulating the acceptance of bribes by the Chief Executive, it also stipulates that anyone who offers a bribe to the Chief Executive commits an offence.

Ms Cyd HO mentioned in her speech that all people are equal before the law. I would like to point out, although all people are equal before the law, it does not mean that every provision should be applicable to all people. Each provision is formulated to serve a particular purpose and thus it will be applicable to different targets. For instance, sections 3 and 10 of the Ordinance only apply to "prescribed officers" but not "public officers" who are not prescribed officers, such as Legislative Council Members. Nevertheless, it does not mean that Legislative Council Members are above the law.

Similarly, the Chief Executive is also under the regulation of bribery offences under the common law. Anyone who offers any bribes to the Chief Executive shall also be guilty of an offence. In addition, the common law "offence of misconduct in public office", which is directed against any form of serious misconduct committed by public officers, also applies to the Chief Executive. In the light of the experience in Hong Kong and other common law jurisdictions, the "offence of misconduct in public office" can effectively deal with corruption or other misconduct as appropriate.

Public officers should stay alert at all times to avoid any conflicts of interests; the Chief Executive is no exception. The Chief Executive, being the Chairman of the Executive Council, voluntarily abides by the system of declaration of interests by Executive Council Members, including the requirement of making regular declaration of interest. On assumption of office and each year thereafter, the Chief Executive will declare his registrable interests for public inspection in accordance with the arrangements applicable to Executive Council Members. He will also declare his financial interests on a confidential basis annually for filing by the Clerk to the Executive Council. As in the case of any Executive Council Members, the Chief Executive will notify the Clerk to the Executive Council of any changes to the interests declared in accordance with the system.

Although the Chief Executive is not politically appointed, he voluntarily abides by the principles and spirit of the Code for Official under the Political Appointment System (Code), including making declarations of financial interests and any interests under the Code. The open section of his declaration has been uploaded to the website of the Chief Executive's Office for public inspection.

The Chief Executive's Office has in place an established mechanism to handle gifts presented to the Chief Executive. The Register of Gifts Presented to the Chief Executive, which discloses any official gifts of perceived value over HK\$400 presented to the Chief Executive, is updated monthly and uploaded to the website for public inspection to ensure transparency in terms of the acceptance and disposal of gifts by the Chief Executive. Generally, official gifts presented to the Chief Executive will be passed to the Government for disposal instead of being retained for personal use.

Deputy President, the above descriptions indicate that the Chief Executive is, either in respect of statute law or common law, under strict anti-corruption regulation under the Basic Law and the laws of the SAR. This, coupled with the Chief Executive's voluntary compliance with the relevant system of declaration of interests, we opine that the regulation is effective.

In its report published in 2012, the Independent Review Committee recommended that the application of sections 3 and 8 of the Ordinance should be extended to the Chief Executive and an Independent Committee should be set up to give the Chief Executive general or special permission to solicit or accept advantages. Given that the recommendations involve issues related to constitutional, legal and operational aspects, and may have impacts on the existing legislation, the SAR Government has reiterated time and again that it must review the recommendations prudently, conduct detailed study and consider the circumstances in its totality. Here I would like to highlight some points.

According to the Basic Law, the Chief Executive holds a unique constitutional status in the HKSAR. Pursuant to Article 43 of the Basic Law, the Chief Executive shall be the head of the HKSAR and shall be accountable to the Central People's Government and the HKSAR in accordance with the provisions of the Basic Law. The Independent Review Committee also points out in its Report that any recommendation concerning the establishment of a control regime for the solicitation or acceptance of advantages applicable to the Chief Executive must take the unique constitutional status of the office of the Chief Executive into account. Accordingly, requiring the Chief Executive to

obtain permission from an Independent Committee jointly appointed by the Chief Justice of the Court of Final Appeal and the President of the Legislative Council, for solicitation or acceptance of advantages may be incompatible with the Chief Executive's unique constitutional status. From a legal perspective, there are still some unresolved conceptual and constitution issues in respect of the recommendations.

Pursuant to section 8(1) of the Ordinance, any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence. Since the Chief Executive is the head of the HKSAR Government, anyone who offers any advantages to the Chief Executive while having dealings of any kind with any departments of the Government shall commit an offence if section 8 is amended. Although the Independent Review Committee recommends that the offeror of an advantage shall not be bound by the relevant provision if the Chief Executive is granted the general permission to accept advantages, the recommendation of establishing an Independent Committee to grant general or special permission to the Chief Executive to solicit or accept any advantages may, as I have just explained, be incompatible with the Chief Executive's unique constitutional status. As such, we still need to consider in totality how the application of sections 3 and 8 shall be extended to the Chief Executive.

Mr Alan LEONG mentioned the UGL Limited (UGL) incident in his amendment. The incident had already been fully discussed in the Legislative Council. Mr Alan LEONG mentioned in his amendment that some members of the public are worried whether the Administration's delay in amending the Ordinance is related to this incident. I would like to point out here that the amendments of the Ordinance are totally unrelated to the UGL incident. The Administration absolutely has no intention to delay the amendment process.

Deputy President, it is beyond doubt that the SAR Government is determined to combat corruption and will not slacken off. We are confident that our existing legislation and the declaration system have already provided an effective legal regime to handle issues related to the alleged corruption or misconduct of the Chief Executive. The SAR Government will handle any recommendations on legislative amendments prudently and will continue to conduct studies carefully.

With these remarks, Deputy President, I will listen attentively to Members' speeches to be delivered and will respond in my concluding speech.

MR IP KIN-YUEN (in Cantonese): Deputy President, Chief Secretary Carrie LAM just mentioned that the Chief Executive had promised that he would expeditiously and strictly implement the recommendations of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interest (Independent Review Committee), and his position has remained unchanged. However, after a lapse of three years, we still have not seen the introduction into the Legislative Council any proposed amendments to the Ordinance. I very much hope that, when the Chief Secretary gives a response later, she will explain this situation and tell us the current progress of work, as well as when the proposed amendments will be submitted. I think this is the crux of the whole debate, and I hope the Chief Secretary would give a positive response to Members' concerns.

Deputy President, while there are a number of specific provisions in the Basic Law about the powers of the Chief Executive, the requirement on his conduct is merely expressed in a few words "a person of integrity, dedicated to his or her duties". Though the words are limited in number, the significance is great. As the Chief Executive is the highest authority in Hong Kong, the Central Authorities, the officials of the SAR Government and all Hong Kong people have high expectations of him. He is expected to set a good example and comply with a stricter code of conduct than that for civil servants and accountability officials. He is also expected to have the noblest conduct or to be "whiter than white", so to say. He absolutely cannot be involved in corruption and triad activities. If one's personal conduct is not correct, how can he correct others? How can his prestige and that of the Government be preserved? How can our core values of probity and fairness be upheld?

However, under the present system and legislation, it happens that this person of the highest authority is not subject to the regulation of certain provisions of the Prevention of Bribery Ordinance (Ordinance) applicable for politically appointed officials and civil servants. That is to say, in respect of the same misconduct, politically appointed officials and civil servants may violate the Ordinance while the Chief Executive may be exempted from legal sanctions.

Deputy President, even though the Ordinance stipulates that the bribery-related provisions apply to all persons, including the Chief Executive, politically appointed officials, Executive Council Members and civil servants, sections 3 and 8, which impose strict regulation on public servants, are not applicable to the Chief Executive. Section 3 on soliciting or accepting an advantage is a strict measure to prevent corruption; section 8 is about bribery of public servants by persons having dealings with public bodies and it regulates bribery of public servants. Persons violating both provisions are guilty of an offence. Owing to the fundamental deficiencies of the Ordinance, the Chief Executive, in soliciting or accepting an advantage, does not need any person's permission; he can make his own decision and is not subject to any checks and balances.

Of course, the public will not accept that the Chief Executive can decide on his own whether he will solicit or accept any advantage. Although he has a unique constitutional status, it does not mean that he can be above the system and the law, can be free from regulation under the system and be exempt from legal sanctions. If the Chief Executive can make a decision on his soliciting or accepting any advantage, there will be an absence of control, an absence of a mechanism and an absence of checks and balances, relying on an individual's self-discipline and standards. This is the rule of man rather than the rule of law. Owing to public discontent, the Independent Review Committee chaired by the former Chief Justice Andrew LI was established. The basic conclusion of the Independent Review Committee is that the present system is totally inappropriate. The Chief Executive should not be above the law which applies to politically appointed officials and civil servants. Therefore, the Independent Review Committee proposed 36 recommendations, and one very important recommendation is to amend the Ordinance to apply sections 3 and 8 to the Chief Executive.

Since the era of the first Chief Executive, TUNG Chee-hwa, the Legislative Council has been requesting the amendment of the Ordinance. However, the amendment of the Ordinance is still a castle in the air from the Donald TSANG era to the era of the incumbent Chief Executive LEUNG Chun-ying. LEUNG Chun-ying said when he was the Chief Executive-elect that he would consider the various recommendations in the report seriously and seek to implement them as soon as possible after taking office. The Chief Secretary has just repeated this pledge. However, the pledge is a dishonoured cheque over the past three to four

years. LEUNG Chun-ying has not seriously considered amending the Ordinance and the Government has not submitted any proposed amendments to the Legislative Council, giving the public an impression of "what eyes do not see is regarded as clean". Despite the incident concerning LEUNG Chun-ying's alleged acceptance of \$50 million from an Australian enterprise UGL Limited, the loophole in the law has yet to be plugged. Has the Government turned a deaf ear to the public's dissatisfaction and kept procrastinating? This is the issue that we need to discuss.

Deputy President, according to the provision of the Code for Officials under the Political Appointment System on the prevention of conflict of interest, a politically appointed official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person to lead to embarrassment of the politically appointed official in the discharge of his functions; or to bring the politically appointed official or the public service into disrepute.

The Civil Service Code also provides that civil servants must uphold honesty and integrity; they shall ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests.

The Chief Executive is not subject to the provisions of the Code for Officials under the Political Appointment System and the Civil Service Code, and he is also exempted from the sanctions under sections 3 and 8. Although LEUNG Chun-ying's behaviour has brought the Government into embarrassment or disrepute; and there is perceived or potential conflict of interest, he is not subject to the regulation of these codes and provisions because he is the Chief Executive. Isn't this a double standard?

With these remarks, I support Dr Helena WONG's original motion and the amendments of Mr Alan LEONG and Ms Cyd HO.

MS EMILY LAU (in Cantonese): Deputy President, I speak in support of Dr Helena WONG's motion as well as the amendments proposed by Mr Alan LEONG and Ms Cyd HO.

Yesterday, Legislative Council Members of the Democratic Party met with the Chief Executive and the Financial Secretary to exchange views on the Policy Address and Budget. We pointed to the Chief Executive right at start that the failure to amend the Prevention of Bribery Ordinance (Ordinance) was a serious dereliction of duty on the part of the authorities, because the proposed amendment, as pledged by Mr LEUNG well before he assumed office, has been delayed for many years. It is weird for the Chief Secretary to say earlier that the SAR Government has attached great importance to this and would strictly implement the proposal as soon as possible. Deputy President, it has been more than three years and almost four years, how many three to four years are there in one's life? The current term of the Legislative Council is soon drawing to a close, and there are not too many months left before the Chief Executive leaves office, so I hope that the Chief Secretary will respond later and explain why the Chief Executive still uses such terms as "strictly" and "as soon as possible" when he has been stalling and is unlikely to complete the amendment work before he leaves office.

Given that the international ranking of Hong Kong in the Corruption Perceptions Index has dropped continuously, there is a suggestion that today's motion debate should best be put to vote after the District Council election to be held on 22nd of this month. And yet, regardless of the passage or otherwise of this motion, voters will receive leaflets in the streets, stating that the royalist camp has voted against the proposed amendment to the Ordinance and does not support the implementation of a clean system in Hong Kong. This will definitely happen. I trust that members of the public or voters watching the live broadcast of this debate will see for themselves whether the royalist camp genuinely supports the implementation of a clean system in Hong Kong, and objects to putting the Chief Executive above the law which applies to politically appointed officials and civil servants.

While the Chief Secretary just now called on Members not to be misled as the Chief Executive is already subject to a number of laws, we also wish to call on members of the public not to be misled because as mentioned in paragraph 10 of the report that Andrew LI was tasked to compile, "The strict regime under section 3 of the Ordinance is a stringent corruption prevention measure and is underpinned by criminal sanctions. Section 8 is also part of that regime. A fundamental defect in the present system regulating the solicitation or acceptance of advantages is that the strict regime under sections 3 and 8 of the Ordinance is applicable to politically appointed officials and civil servants, but not the Chief

Executive. The Chief Executive decides on the solicitation or acceptance of advantages for himself and is not subject to any checks and balances. The Review Committee considers that this is totally inappropriate. The Chief Executive should not be above the law which applies to politically appointed officials and civil servants." Thus, Members should not believe in what the Chief Secretary said and think that relevant laws have been put in place.

As for the opinions of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), the Chief Secretary has made no mention of it just now. Last week, Mr TAM Yiu-chung proposed an amendment to substantially delete the contents of the motion, and agreed to complete the study on the recommendations. However, it has been three years and six to seven months, and how many more three years do we have to wait before the relevant study is completed? Mr TAM Yiu-chung also echoed the Chief Secretary's earlier remark on constitutional status, but reckoned that the Independent Review Committee had already taken into consideration the noble status of the Chief Executive, so there should not be any problem for the Independent Committee jointly appointed by the President of the Legislative Council and the Chief Justice of the Court of Final Appeal (CFA) to deal with the matter. For this reason, he also considered the authorities' lame argument unacceptable. Mr TAM Yiu-chung's remark has made it very clear that only the principal or supervisor of the Chief Executive can give permission for the solicitation or acceptance of advantages. But how can the Independent Committee become the principal or supervisor of the Chief Executive? Who should give the relevant permission? Either Beijing or the State Council. Fortunately, Mr TAM Yiu-chung still has some slight awareness that this would only complicate the matter even further. Notwithstanding that, Deputy President, may I know which provision of the Basic Law requires that amendments to the Ordinance should involve Beijing and the State Council? I would like to remind the DAB to be careful as this will only end up in a mess with the problem remaining unresolved.

Deputy President, something even more terrible happened last month. Ms Elsie LEUNG, the first Secretary for Justice of the SAR Government, pointed out that there was an unwritten rule in Hong Kong of not subjecting the sitting Chief Executive to prosecution. Even if the Chief Executive was charged with serious breach of law, he might only be impeached by the Legislative Council by invoking the impeachment proceedings under Article 73(9) of the Basic Law. I nearly jumped out of my skin when I heard that. But perhaps Hong Kong people or the media have got used to surprises, her remark was not widely reported. I have nonetheless consulted the Legal Adviser of the Legislative

Council right away, and he gave me an article explaining why this was not possible. Of course, the Chief Secretary was silent on this and dared not touched on it either, unless she is so bold. I nonetheless wish to ask Ms Elsie LEUNG to withdraw her remark.

Having said that, it is not right for the DAB to say that no amendment can be made because the problem relating to a principal or supervisor cannot be resolved, or the Independent Committee proposed by Andrew LI and the Hong Kong Bar Association fails to provide a mechanism to govern the solicitation or acceptance of advantages. In that case, the problem will remain unresolved and the serious deficiencies and loopholes will continue to exist. Will this make Hong Kong's clean system more vulnerable to attacks and cause further decline in our ranking? Therefore, people should wait and see. We will distribute leaflets after the motion is put to vote, and people will find out who does not welcome any clean system in Hong Kong. I so submit.

MR MICHAEL TIEN (in Cantonese): Deputy President, the Chief Executive as the head of the Hong Kong Government is certainly required to be a person of integrity. I believe that all Members, whether from the pro-establishment camp or the pan-democratic camp, must agree with this. Article 47 of the Basic Law stipulates that "[t]he Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties". So, provided that the constitutional requirements of the Basic Law are complied with, I shall give my full support to any measures that can perfect our mechanism for preventing the Chief Executive from engaging in corruption or accepting bribes.

When it comes to complying with the requirements of the Basic Law — I have mentioned this before, but as this is where my train of thought is going, I still need to talk about this — we must first look at its provisions concerning the Chief Executive. Article 43 states that the Chief Executive, as the head of the Hong Kong Special Administrative Region (SAR), shall be accountable to the Central People's Government and the Hong Kong SAR in accordance with the provisions of the Basic Law. This "dual accountability system", so to speak, is a feature of "one country, two systems" that distinguishes us from the rest of the world and is unprecedented. For this reason, in designing the mechanism for preventing the Chief Executive from engaging in corruption or accepting bribes, I think we must consider the special constitutional status of the Chief Executive as the head of the SAR Government.

We must take a good look at the existing Prevention of Bribery Ordinance (Ordinance). Under section 3 of the ordinance, any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence. But if it is the Chief Executive himself who seeks to solicit or accept any advantage, whose permission should he get? If there is a grey area, who should be asked for permission?

Deputy President, according to the Report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interest (Independent Review Committee), the Independent Review Committee recommends that an Independent Committee be established to be specifically responsible for giving general or special permission for the Chief Executive to solicit and accept advantages, and that the three members of the Independent Committee must be Hong Kong permanent residents and be appointed jointly by the Chief Justice of the Court of Final Appeal and the President of the Legislative Council. The point at issue is that even if the members of the Independent Committee are jointly appointed by the Chief Justice and the President of the Legislative Council, the constitutional status of these members may still not be comparable to the constitutional status of the Chief Executive. So, in the final analysis, this may not — I repeat, this may not — be suitable having regard to the unique constitutional status enjoyed by the Chief Executive under the Basic Law.

Deputy President, I am not a legal expert myself, and I have no legal background. In order to understand the Ordinance, I have specially consulted many legal experts with different political views, including some experts on the Basic Law. They all reminded me not to overlook the unique constitutional status of the Chief Executive, saying that it would be inappropriate, impractical and improper for people inferior in status to the Chief Executive to exercise control over the Chief Executive. This is the standpoint of "one country". However, in paragraph 4.91 of the Report, former Chief Justice Andrew LI, in direct response to views on the Chief Executive's constitutional status, holds that the proposed set-up is appropriate. This is the standpoint of "two systems". Of course, there is no unanimous conclusion.

Thus, in my view, if the Government goes entirely by the wording of Dr Helena WONG's original motion to submit to this Council an amendment bill on the Ordinance pursuant to (that is, one hundred percent in accordance with) the

recommendations of the Independent Review Committee, there will be problems despite her good intentions. As pointed out in Article 43 of the Basic Law, the Chief Executive is the head of the Hong Kong SAR and shall be accountable to both the Central People's Government and the Hong Kong SAR Government. Therefore, if an Independent Committee is to be appointed for permitting the Chief Executive to solicit and accept advantages, given that no one in the Hong Kong SAR has a higher constitutional status than the Chief Executive, it is only reasonable — Deputy President, it is only reasonable — that this Independent Committee should be appointed by the Central People's Government, right? But then this will probably, or rather, definitely, give rise to other disputes in the community, which is another topic that needs to be explored.

Deputy President, I must reiterate that I support perfecting the legislation to prevent the Chief Executive from engaging in corruption or accepting bribes, and I would like to pay tribute and express my gratitude to the Independent Review Committee chaired by former Chief Justice Andrew LI for doing such a great deal of work on this matter. Nonetheless, I have a query that I raised just now about acting in full accordance with its recommendations. I have thought about this contradiction for several nights, Deputy President; several nights have passed, but I still have not thought it through. So, simply put, I think Dr Helena WONG's original motion is in the right direction, but the devil is in the detail. I have reservations about how to put it into practice. After balancing the viewpoints of both sides, I have no alternative but to abstain from voting on the motion. As for Mr TAM Yiu-chung's amendment, I think it still stands a chance of removing the question mark in my mind and resolving the contradiction arising from the "three-member committee", and it is a proposal worth exploring. Therefore, I will support this amendment.

Deputy President, I so submit.

MR SIN CHUNG-KAI (in Cantonese): Deputy President, the main reason cited by the Chief Secretary for Administration in saying that it is inappropriate to extend the application of sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) to the Chief Executive is that such an extension is incompatible with the constitutional status of the Chief Executive. I am not sure whether this conclusion is derived from any actions taken by the SAR Government without our knowledge or without being announced, such as seeking advice from the

Basic Law Committee by the SAR Government, and so on. If such actions had been taken, I hope the Chief Secretary will inform us later. Just now, I listened to the speech of the Chief Secretary and it is likely that she will speak again later; however, I still think the Chief Secretary has not provided sufficient legal grounds, all she has been saying is that it is incompatible with the constitutional status of the Chief Executive.

The second point raised by the Chief Secretary is that UGL Limited (UGL) is not covered by sections 3 and 8 of the Ordinance. I cannot rashly reach such a conclusion as the Chief Secretary. Let us leave it to the Independent Commission Against Corruption (ICAC) for investigation. Having said that, we have a precedent now. It turns out that apart from sections 3 and 8 of the Ordinance, the Chief Executive also has to observe the code of conduct for public officers, failure of which will be regarded as a misconduct and may likely be charged. A case in point is that the former Chief Executive is being charged for misconduct in public office. The Chief Executive received money from UGL without making declaration, is this a misconduct?

The Chief Executive has to make a declaration of interests in two areas. On the one hand, he has to, on assuming office, declare his assets to the Chief Justice; and on the other hand, he has to declare interests to the Executive Council. The Chief Secretary pointed out that the Chief Executive makes an annual declaration to the Executive Council. I have now in hand the declaration information submitted by LEUNG Chun-ying on 3 August 2012 to the Executive Council after his assumption of office. After reading the information, I could not find any mention of UGL, and I also failed to be informed that he would get money from UGL by two instalments after his assumption of office: the first instalment in December 2012 and the second instalment in December 2013 with the amount of £2 million respectively. LEUNG Chun-ying received two sums of money, but I do not know why he was not required to make any declaration to be put on the record of the Executive Council. If LEUNG Chun-ying opines that no declaration is required, I am curious to know whether the ICAC should intervene to investigate the possibility of misconduct in public office. In fact, if no declaration is required, please offer an explanation as it is so obvious ...

Deputy President, as early as 1999, a question was raised in the Legislative Council regarding the legal loophole of the Chief Executive not being subject to sections 3 and 8 of the Ordinance. The Democratic Party raised this issue at a

meeting with the Chief Executive in July 2013. We discussed the issue in 2015 again. Since then, that is, from 1999 to the present time, 16 years have passed and it seems that those sections are still incompatible with the Chief Executive's constitutional status, as pointed out by the Chief Secretary just now. I am quite confused. As the Chief Executive's Office is subject to internal auditing, does it mean that internal auditing is above the Chief Executive? Is this an inappropriate analogy? Many practices of the Chief Executive's Office are subject to different rules prescribed by the Government. When the Chief Executive falls within the ambit of other government departments and is under their regulation, can we say that he has been overridden by other departments?

Regarding the Independent Committee, that is the "three-member committee" jointly appointed by the President of the Legislative Council and the Chief Justice, how is it possible to have the so-called overriding problem? This Independent Committee shares the same spirit as the Ordinance in examining whether certain gifts can be accepted. It does not imply that the Independent Committee becomes the supervisor or boss of the Chief Executive. As such, I do not understand why incompatibility exists.

Hong Kong is granted with the unique regime of "one country, two systems" by the Basic Law. Concerning the appointment of members to this Independent Committee, I can hardly endorse the remark made by Mr Michael TIEN or by Mr TAM Yiu-chung last week, stating that members of the Independent Committee should be appointed by the Premier of the State Council. "One country, two systems" must be manifested in Hong Kong, while other issues may be exceptions. When it comes to petty issues like making legislative amendments, which are indeed petty in nature, Hong Kong should be able to handle them by itself, and it is not necessary for the SAR to refer the issue to the State Council for handling.

In 2012, Andrew LI put forward 36 recommendations in the Report of Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests, among which, he suggested that section 8 of the Ordinance, that is, "bribery of public servants by persons having dealings with public bodies" should be extended to the Chief Executive. By providing that the Chief Executive cannot accept any entertainment and advantages at will, the regulation of the Chief Executive will be on a par with politically appointed officials and civil servants. Chief Secretary, please understand, even if the Chief Executive holds a unique constitutional status, members of the public do not expect that he

should be above the law and that he should be treated differently from that of politically appointed officials and civil servants. Even if the Chief Executive holds a unique constitutional status, and I will not challenge his status as the head of the SAR, I hope he should not be above the law and should not be subject to regulations different from that applicable to public officers.

Andrew LI's report was issued three years ago. As Ms Emily LAU of the Democratic Party said, we urged the Chief Executive to make good on his promise whenever we met him in the past two years, yet he kept failing to honour his promise. I believe he will still fail to honour his promise after one and a half years. I hope the Chief Secretary would understand, in the legal aspect, while the Chief Executive and the general public enjoy their rights, they should also abide by the law, and the Chief Executive should not, owing to his so-called transcendent status ... if the Chief Executive is suspected of taking bribes and breaking the law and such claim is substantiated upon investigation, he shall be held liable. I believe everyone will agree. The Legislative Council may consider taking actions pursuant to Article 73(9) of the Basic Law, but this may involve the problem of dereliction of duty, which may be far too serious, and we do not intend to trigger a third mechanism in addition to the one recommended. I hope the Government will focus on responding on the reason why (*The buzzer sounded*) ...

DEPUTY PRESIDENT (in Cantonese): Mr SIN, your speaking time is up. Dr LAM Tai-fai, please speak.

(Mr LEUNG Kwok-hung stood up)

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, Dr LAM Tai-fai is speaking but nobody listens. I think a quorum is not present.

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

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

DEPUTY PRESIDENT (in Cantonese): Dr LAM Tai-fai, please speak.

DR LAM TAI-FAI (in Cantonese): Deputy President, although the motion and the amendments that we discuss today have no legislative or binding effect, I believe the contents and wording of the motion, the speeches and voting preference of our colleagues, the voting result, as well as the responses made by government officials today will draw much attention from people of the whole city, especially those in the political arena and the legal profession. As a matter of fact, the work, words and deeds of Members and government officials are all under the scrutiny of the people of Hong Kong. Therefore, I sincerely hope that during the discussion today, we can concern ourselves with facts but not with individuals.

The amendment of the Prevention of Bribery Ordinance (Ordinance) or otherwise must premise on the overall interests of Hong Kong. We must spare no efforts in upholding Hong Kong's core values, namely the rule of law and the spirit of integrity, and avoid any loopholes or grey areas in the Ordinance that people can abuse power for personal gains or exercise public powers to achieve private ends.

Everyone is equal before the law — unless they are not humans. Hence, when dealing with today's motion, we must be calm, objective, rational and pragmatic. We should not make irrational or inappropriate remarks just to express our political stance or interests, or just to give vent to our sentiments. In our discussion, we must distinguish right from wrong, fully justify our arguments and be impartial. Later on we must make the right decision when casting the votes.

Deputy President, we cannot blindly oppose the amendment of the Ordinance for the sake of supporting the Government; neither can we accept the Government's deliberate delay of amending the Ordinance with inappropriate excuses or reasons, for in so doing, we will never get the recognition or support of the people of Hong Kong. For the same reasons, we cannot request amending the Ordinance for the purpose of damaging the incumbent Government's prestige and hindering its governance; we cannot, owing to our hatred of LEUNG Chun-ying or dislike of Donald TSANG, request that the amendment to the Ordinance be tailor-made, so as to target at and attack LEUNG Chun-ying and Donald TSANG.

Similarly, if we adopt the political ideology of directing at individuals rather than facts in dealing with matters, I believe we cannot get the approval or support of most people in the community, and may even be resented or disliked. Hence, it would be truly meaningless if Members still dwell on the cases of LEUNG Chun-ying accepting money in the UGL incident and Donald TSANG currying small favours such as travelling on private jets, and lash out at them.

Deputy President, the general direction of our discussion is to urge the Government to amend the Ordinance to right the wrong and plug the loopholes as soon as possible; to give an account of the procedure and timetable for the legislative amendment work; as well as to explain why it still has not commenced the legislative work. What are the reasons for the long delay? The Government said that the amendment process is very complicated. But no matter how complicated it is, I think the Government should give a clear explanation to the public. As the public are gravely concerned about the amendment of the Ordinance, the Government must be highly transparent and efficient in handling the work, which is of paramount importance. If the Government is not open and honest with the people, people will easily tend to suspect the Government's motive. Some people may even suspect that someone in the Government is afraid of being caught in one's own trap and thus tries to stall the amendment by all means. This is a very negative message to society and we should avoid it at all costs.

Deputy President, the Central People's Government is making great efforts to build a strong state. Since President XI Jinping assumed office, he has worked vigorously to eliminate corruption and promote integrity in the country, cracking down hard on corrupt officials, be they "flies" or "tigers". When President XI visited the United States in September, he reiterated China's stance, "governing the State starts from setting the Party in order, setting the Party in order must be strict with Party discipline". He pledged to crack down on corruption within the Communist Party of China to meet the people's aspirations.

Deputy President, operating under the principle of "one country, two systems", Hong Kong should follow the State's policy direction. The Government should meet the people's aspirations, stop people from enjoying privileges and taking advantage of the opportunities to engage in corruption. Such practices are unacceptable to the public and will tarnish Hong Kong's image, jeopardize Hong Kong's interests and damage Hong Kong's prosperity and stability.

Deputy President, in 2012, Donald TSANG, the former Chief Executive, was suspected of accepting the entertainment offered by wealthy tycoons, leading to a huge public outcry. Consequently, the Government set up an Independent Review Committee to review the present system for the prevention and handling of potential conflicts of interests of the Chief Executive and senior government officials. The Independent Review Committee put forward 36 recommendations, including extending the regulatory framework to include the Chief Executive, rendering it a criminal offence for the Chief Executive to accept advantages, and setting up an Independent Committee for vetting purpose. As a matter of fact, the incumbent Chief Executive, Mr LEUNG Chun-ying welcomed the recommendations of the Independent Review Committee and expressed his approval for them. Members may still recall that when he was running for the office of the Chief Executive, he promised in all sincerity that he would consider the various recommendations in the report seriously and that he would also take the initiative to enhance the requirements on declaration of interests for the Chief Executive to a level on a par with civil servants. He pledged openly that he would set an example and lead all civil servants and his team of accountable officials to establish an honest government of integrity.

For some unknown reasons, however, three years have passed and there has been all talk but no action. Many people criticize the Independent Review Committee as a "toothless tiger", and the promises made by the Chief Executive have all become empty talk. Many people also question if the Government has any intention to amend the law. There are just rumours everywhere.

Deputy President, our society is deeply divided and rife with conflicts. The Chief Executive has low popularity and grievances among the people run high. Therefore, if the Government continues to try to smooth talk its way out, using such excuses as the priority of policy implementation to avoid amending the Ordinance, I believe it will let people down again and they will harbour even more distrust and resentment against the Government. I truly hope that the Government will carefully weigh the gains and losses, seriously follow up the Independent Review Committee's recommendations and act in accordance with the Basic Law instead of procrastinating and putting off doing what it should do.

Deputy President, I so submit.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, excuse me, despite my throat discomfort, I still want to speak on the subject on the Chief Executive and the Prevention of Bribery Ordinance. Before I give a formal speech, I would like to offer an example. I recollect that last year the Macao Government, without any public consultation, tabled a bill to the Legislative Assembly, the provisions of which stipulated that the Chief Executive would be exempt from any criminal liability during his term of office. The bill had triggered a public outcry and prompted many who never cared about politics to take to the streets, sign petitions and participate in assemblies to voice their strong opposition. The reason was that they believed that the absence of any law to deter the Chief Executive's corruption and to hold him liable is tantamount to permitting tacitly his offence. Chief Secretary, I hope you can understand this line of reasoning.

As a matter of fact, from time immemorial, there is a saying that goes "a sovereign who breaks the law shall be held liable like his subjects". Surprisingly, the head of our SAR, the Chief Executive, is not subject to the regulation of sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance). In other words, this arrangement ensures that the Chief Executive is not subject to any regulation and is exempt from any criminal liability upon accepting gifts. As pointed out by the Chief Secretary just now, many provisions of the Ordinance also apply to the Chief Executive, but regrettably, the said two sections do not apply to him. As such, the Chief Executive enjoys privileges and is condoned, with the objective result of encouraging the trend of corruption.

The exposure that former Chief Executive Donald TSANG accepted entertainment offered by tycoons in 2012 triggered a public outcry. In order to address public discontent, he then established an Independent Review Committee led by Chief Justice Andrew LI and comprising four other members, so as to review the regulatory system for the prevention and handling of potential conflicts of interests concerning the Chief Executive, Executive Council Members and accountability officials, and to put forward recommendations. The Independent Review Committee released a report on 31 May that year setting out 36 proposals. The SAR Government later indicated that several proposals set out in the report had been implemented, but regrettably, the very important provisions have yet to be enforced.

Deputy President, the SAR Government has indicated on various occasions that the Chief Executive has undertaken to observe the Code for Officials Under the Political Appointment System (Code). Former Chief Executive Donald TSANG voluntarily observed the Code, and according to the Chief Secretary just now, Chief Executive LEUNG Chun-ying has also undertaken to observe the Code. However, Deputy President, this is only their personal undertakings with no binding effect. In addition, even if the heads of the two terms of the SAR Government are willing to make the commitment, will any future Chief Executive be likewise willing to observe the Code? Who can give such an assurance?

In addition, among the 36 proposals put forward by Andrew LI, seven still remain to be addressed. The Government set up an Independent Review Committee to conduct studies and reviews, but it has only selectively implemented some of the recommendations proposed. What kind of attitude is this? Has the Government ever respected the Independent Review Committee? As mentioned by many Members just now, the application of these provisions to the Chief Executive will be in conflict with the constitution. May I ask the SAR Government whether it has discussed with and consulted Andrew LI and the Independent Review Committee about the constitutionality of their proposals?

In my view, the Government merely intended to establish a committee as a shield to fend off public grievances. It has selectively implemented the recommendations that are expedient and simple, but rejected those that truly tackle the critical problems, thus allowing the head of the SAR Government to enjoy the treatment of "no criminal liability to be borne by the Chief Executive". As indicated by many Members just now, Chief Executive LEUNG Chun-ying vowed solemnly to address the problems before his taking office, but now he gives people the impression that he will remain indolent until the end of his office, such that he will not have to tackle the problems and thus free himself from being held accountable. His irresponsible behaviour is really disgraceful. Given the discord between his words and deeds, can anyone believe the pledges to be made by him in the remainder of his term?

Deputy President, in reply to media enquiry about the long period of time the SAR Government took to implement the recommendations, the SAR Government indicated that, "we must exercise care and examine them in detail and in a holistic manner, taking into full consideration ... After the study has been completed ... consult the Legislative Council in due course". In this connection, as remarked by some Members just now, the Government has merely resorted to verbal tricks without taking any concrete actions. It is basically

procrastinating, with the hope of dragging on until the end of the term of the Chief Executive, such that he will not be subject to any monitoring and be held accountable. In fact, Deputy President, the reply of the Government is very vague and devoid of content. A period of three years is long enough, and we cannot wait any longer. I hope that the SAR Government can give a reply to this question.

The Chief Secretary played down the issue just now by saying that the Register of Gifts presented to the Chief Executive released by the Chief Executive's Office indicates that LEUNG Chun-ying has never retained any items for personal use. That said, Deputy President, the question is whether that represents the whole truth. In the past, LEUNG Chun-ying said that he had no unauthorized building works (UBWs), but following the exposure of his UBWs, he claimed that he could not remember or his memory had failed him, with the intention of shirking his responsibility (*The buzzer sounded*) ... If the Ordinance is not amended this time around, no investigation whatsoever can be conducted.

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, your speaking time is up. Please sit down.

MR CHRISTOPHER CHEUNG (in Cantonese): Deputy President, "equality before the law" is a matter of course in a society that upholds the rule of law, and it is also the prime substance of fairness and impartiality. The motion and amendments proposed by Honourable Members today give us the chance to discuss the issue of "Extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive". In my view, this would not only be conducive to improving the legislation and upholding the spirit of the rule of law but also to facilitating the creation of a fairer and more impartial social environment. However, as the amendments of Mr Alan LEONG and Ms Cyd HO evaded the constitutional issues involved in amending the Prevention of Bribery Ordinance (Ordinance), I cannot support them.

To avoid deliberate distortion by the pan-democrats, I must first declare that my opposition to the amendments of Mr Alan LEONG and Ms Cyd HO does not mean I agree that the Chief Executive may enjoy privileges. Conversely, I believe that "a sovereign who breaks the law shall be held liable like his subjects". I do not want anyone to be above the law and enjoy privileges.

Deputy President, I oppose the amendments of the two Honourable Members mainly because they have neglected and evaded the constitutional and operational issues involved in amending the Ordinance. The Chief Executive is appointed by the Central People's Government and he has unique constitutional status. To extend the application of the provisions of the Ordinance to the Chief Executive, the constitutional status of the Chief Executive must first be taken into account.

In proposing their amendments, Mr Alan LEONG and Ms Cyd HO have neglected the major premise of the constitutional system. Even though they have given an exaggerated account, they will just be wasting their efforts. They have urged the authorities to complete the scrutiny of and pass the relevant amendments within the current term of the Legislative Council, I beg to differ as the Chief Executive is currently subject to regulation under various legal provisions, such as Article 47 of the Basic Law, as well as public supervision. Such a practice of "setting a deadline" is not conducive to carrying out comprehensive and detailed studies by the Government.

Deputy President, as amending the Ordinance is a serious matter, I think the Government must consider the matter in a holistic manner, conduct detailed studies and handle the matter carefully and it definitely must not act hastily; otherwise, things may end up with a blunder. Besides, the Government cannot procrastinate indefinitely and it should deal with the matter in a more proactive manner. I am very supportive of the amendment of Mr TAM Yiu-chung who calls on the Government to complete expeditiously the study on the recommendations put forward in the report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests, and handle the issue in compliance with the constitutional requirements under the Basic Law.

Lastly, while pan-democratic Members claimed that they pursue "equality before the law", I hope they are not being hypocritical and treating people differently or targeting at Chief Executive LEUNG Chun-ying. I also hope they are not harbouring selfish motives in claiming to be upholding justice, such that they would pretentiously proclaiming to pursue "equality before the law" when it is conducive to their seizing political capital; but when some who share their political stance have breached the law, they would just avoid discussing the matter or they would even support them implicitly or explicitly.

For instance, in dealing with the deliberate disclosure of contents of the Council meetings of the University of Hong Kong, as well as illegal acts that took place during the Occupy Central movement last year, such as occupying roads illegally, storming the Legislative Council Complex, hurling abuses at police officers and demanding rudely to inspect food carried in police vehicles, Members should step forward and denounce these illegal acts if they truly want to defend the rule of law and eagerly pursue fairness and justice; they should not be evasive and vague.

I hope pan-democratic Members would understand that "equality before the law" actually means that the Chief Executive and members of the public cannot be above the law, and they cannot wilfully and arbitrarily break the law by waving the flag of democracy and chanting slogans to pursue democracy. A clean and impartial Hong Kong depends upon sound legislation and every one of us to comply with the law and take actions to uphold fairness and impartiality in society.

I so submit. Thank you, Deputy President.

MR DENNIS KWOK (in Cantonese): Deputy President, I think most people of Hong Kong would agree to the saying that LEUNG Chun-ying is the least upright Chief Executive after the unification. LEUNG Chun-ying lacks integrity and does not keep his promises. Over three years ago when he was running for the office of the Chief Executive, he made a promise. It was stated in a press release, "Mr LEUNG will consider the various recommendations in the report (the report of former Chief Justice Andrew LI) seriously and seek to implement them as soon as possible after he takes office. During his campaigning, Mr LEUNG stated publicly, 'I would take the initiative to enhance the requirements on declaration of interests for the Chief Executive to a level on a par with civil servants.'" After this promise was made, it has been over three years now and LEUNG Chun-ying's term of office has already passed the halfway mark. Is he seeking to implement the recommendations "as soon as possible"? I believe even those who excel in double-talk can hardly explain how he is implementing the proposals "as soon as possible". The saying that he would enhance the requirements on declaration of interests for the Chief Executive to a level on a par with civil servants is another promise that he cannot honour. For example, if the one involved in the UGL incident was a civil servant, that civil servant would at

least face disciplinary action if not prosecuted in court. But today, LEUNG Chun-ying can still say he needs not declare interests, as if nothing had happened.

Deputy President, in the report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests, former Chief Justice Andrew LI recommends that sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) be amended so that they will apply to the Chief Executive in accepting advantages and to people offering advantages to the Chief Executive. This is the most important recommendation in the report because the Chief Executive, being the highest ranking and most powerful official in Hong Kong, should be subject to regulations that are more stringent than those applicable to accountability officials who have lower ranks and less power. But the fact is that the Ordinance cannot regulate the Chief Executive. Hence, we should at least require the Chief Executive to be bound by the same regulations as those applicable to other officials.

Some would ask, how come in the past the Governors of Hong Kong were not subject to regulation, but after the reunification, the Chief Executive should be subject to regulations? The reason is simple. Before the reunification, the Governors of Hong Kong were officials of Great Britain, and even if they were not bound by the Ordinance, they would be handled by the British Government, parliament and laws for accepting advantages inappropriately. On the contrary, although Article 43 of the Basic Law stipulates, "The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this Law", the Chief Executive is not bound by the Mainland law under "one country, two systems". If he violates the law, he is not bound by the Mainland law and the Central People's Government. Hence, if the Chief Executive of Hong Kong is not even subject to the Ordinance of Hong Kong, he will be the only official holding such a transcendent status in the whole nation. If so, he truly transcends the administrative, legislative and judicial organs, as what ZHANG Xiaoming has said. Not only so, he even transcends the status of the State President because he is not bound by any law.

Deputy President, one must note that under section 8 of the Ordinance, any person who, without lawful authority or reasonable excuse, while having dealings with any public servant, offers any advantage to that public servant, shall be guilty of an offence. Hence, if section 8 is amended to apply to the Chief

Executive, not only the Chief Executive but also those who intend to bribe or offer advantages to the Chief Executive will be subject to this provision. The Chief Executive will not be the only one to be regulated. At present, it is not a violation of law to offer advantages to the Chief Executive. The most obvious example is former Chief Executive Donald TSANG who accepted advantages from some businessmen, but none of the businessmen had been bound by the law.

Deputy President, the Government has, in reply to the query of why it still has not amended sections 3 and 8 of the Ordinance to extend their application to the Chief Executive, always used the excuse that the Chief Executive has a special constitutional status, and thus it is very difficult to find a suitable person to consider whether the Chief Executive has accepted advantages. Moreover, as the Chief Executive's status is different from that of ordinary officials and the nature of advantages accepted by the Chief Executive is also different, it is difficult to define what contributes to bribery. This is just talking nonsense. Deputy President, Article 47 of the Basic Law already stipulates that the Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal and this declaration shall be put on record. The Basic Law has set down a mechanism requiring the Chief Executive to declare interests, which has been in force all along. Concerning the enhancement of the mechanism, since former Chief Justice Andrew LI had proposed a recommendation and we also have Article 47 of the Basic Law as the legal basis, is the implementation of the recommendation really that difficult, such that no results can be made after three years of study?

Since this recommendation was put forward by the former Chief Justice, is it really impossible to enforce it legally? If so, why was the recommendation proposed? I believe that the former Chief Justice, with his extensive legal knowledge, would not have put forward any recommendations that could not be enforced constitutionally or legally. If officials of the SAR Government are at their wits' end, they should by all means consult former Chief Justice Andrew LI whether his recommendation is viable constitutionally or legally. If they still have legal problems that they cannot solve, they can also summon the help from the Law Reform Commission. The Commission had handled some very complicated and difficult problems relating to law reform in the past and had not been daunted. Hence, over more than three years of study ... I remember I have repeatedly asked the Chief Secretary when the legislation will be enacted and her answer has always been "it is still under consideration". They just keep stalling.

Deputy President, it is not possible to ask a Chief Executive, who is devoid of integrity, to amend the law so as to put himself under regulation. Now, the people of Hong Kong understand that they have to wait till LEUNG Chun-ying is no longer in office before the Ordinance can be amended. If LEUNG Chun-ying will not run for the second term, I believe we do not have to wait too long. Deputy President, I so submit.

MR CHARLES PETER MOK (in Cantonese): Deputy President, this motion seeks to "Extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive". In my opinion, it is indeed mind-boggling that this Council must hold a debate on this subject. Is it true that somebody really sees himself as being above the law? Without doubt, acts of corruption of public officials must be stopped. Isn't the Central Government also fighting corruption day in, day out? But more importantly, this motion is significant in the sense that it seeks to establish the fact that the Chief Executive should be the same as other public officials in respect of being bound by all provisions of the Prevention of Bribery Ordinance (Ordinance), rather than allowing the post holder to be above the law which applies to politically appointed officials and civil servants.

In 2012, former Chief Executive Donald TSANG established an Independent Review Committee and appointed former Chief Justice, Andrew LI, to review the regulatory frameworks for the prevention of potential conflicts of interests concerning the Chief Executive and other public officials. The Independent Review Committee eventually put forward a number of recommendations.

Legally, the Chief Executive is not bound by at least two legal provisions presently, namely, section 3 of the Ordinance which provides that no public officer may solicit or accept any advantage without the permission of the Chief Executive, but the Chief Executive is free to grant permission to himself. While the former Chief Executive had appointed the Judge to put forward these recommendations in a high-profile manner, the incumbent Chief Executive has disregarded them totally, and no plausible reasons have been given so far. This incident once again testifies that the Chief Executive considers that he holds a transcendent status.

Section 8 of the Ordinance provides that any person who offers any advantage to any public officer, while having dealings of any kind with the

Government, shall be guilty of an offence. Likewise, the provision is not applicable to the Chief Executive, and it only penalizes the party offering the advantage.

Former Chief Justice Andrew LI recommended that the Ordinance be amended to extend the scope of the two provisions to cover the Chief Executive. At that time, Chief Executive LEUNG Chun-ying, as the Chief Executive-elect, pledged that he would consider these recommendations seriously and seek to strictly implement them as soon as possible. At that time, LEUNG Chun-ying should know very well what he had done. Hence, it is hardly surprising that after three-odd years and with his term of office more than halfway through, he did nothing to honour the pledge. The LEUNG Chun-ying Government only amended some declaration guidelines, while most of the other recommendations requiring legislative amendments have yet to be implemented, including the recommendation that the relevant provisions of the Ordinance be extended to apply to the Chief Executive.

Eventually, the truth came to light. Deputy President, as reported by the Australian media last year, after LEUNG Chun-ying announced his decision to run for the office of the Chief Executive in 2011, he signed an agreement with an Australian corporation UGL and received a remuneration of £4 million. At that time, he was not yet elected and had already resigned as a Member of the Executive Council. Therefore he was not a public officer. But since LEUNG Chun-ying assumed office in July 2012, he never made any declaration in respect of this sum of accounts receivable. When he actually received the payment in two batches in December 2012 and December 2013, he was serving as the Chief Executive, but he still made no declaration about receiving the payment of \$50 million. If LEUNG Chun-ying deliberately withheld information about receiving the money, the public would perceive it as some kind of wrong-doing, or that he was corrupt, no matter which angle to look at it.

To make the matter worse, former Secretary for Justice Elsie LEUNG said on a radio programme that if the Chief Executive, as the head of a region, could be prosecuted easily, it would affect the region's stability. In her own words, "The question is not about transcendent or otherwise. The Chief Executive enjoys high status on the one hand, and he is exposed to risk on the other. The stability of the region would be affected if someone invokes these provisions to institute prosecution or lodge false accusations."

She also endorsed the gentleman's agreement that the Chief Executive would not be prosecuted whilst in office. I absolutely disagree with this view because disregarding how great the powers are given to the Chief Executive by the Basic Law, there is no provision that allows him to take bribes. There is no legal provision in Hong Kong exempting the Chief Executive from criminal prosecution. If the Chief Executive really enjoys the immunity from criminal prosecution, he would be above all laws. For instance, if the Chief Executive injured another person, I think nobody would agree that he should be exempted from prosecution. If that is the case, why should he be exempted from prosecution if he accepted bribes?

Miss Elsie LEUNG also remarked that if the Chief Executive is involved in a serious breach of law, the Legislative Council can activate the impeachment process and report the matter to Beijing for his dismissal. Under the distorted and unfair systems of functional constituencies and split voting, how can this Council impeach the Chief Executive? Members cannot even invoke the investigation powers vested under the Legislative Council (Powers and Privileges) Ordinance to inquire into the wrong-doings of the Government as a whole, let alone the affairs of LEUNG Chun-ying as an individual. Hence, this small "imperial sword" has become dysfunctional a long time ago. How can it be used to impeach the Chief Executive? In my view, members of the public can only dream about such an eventuality.

If, as Elsie LEUNG puts it, such a gentleman's agreement really exists, I think it should more properly be called a "non-gentleman's agreement". If the Chief Executive is exempted from prosecution or normal criminal proceedings whilst in office, it would exactly constitute a breach of Article 25 of the Basic Law, that is, "All Hong Kong residents shall be equal before the law."

Deputy President, I speak today in support of the original motion as well as the amendments proposed by Mr Alan LEONG and Ms Cyd HO because the UGL incident is an excellent case in point to reveals the loopholes in the existing legislation, and it is indeed necessary to amend the Ordinance.

Obviously, LEUNG Chun-ying is reluctant to implement the legislative amendments because he is treating himself leniently and procrastinating. He wants to protect himself with his transcendent powers, or his presumed transcendent powers. I think the people can see clearly how lawless and improper his acts are.

This motion is important because the Chief Executive should be bound by law, just like other public officers. It does not target at LEUNG Chun-ying, but the system as a whole. Nonetheless, LEUNG Chun-ying also knows very well that if the Ordinance is amended, it would probably work to his disadvantage. Hence the question itself is already fraught with conflicts of interests.

If there are loopholes in the law, we must deal with them. Regardless of the powers vested by the Basic Law to the Chief Executive, the Chief Executive cannot be so transcendent that he is subject to no control and is above the law, or even to the extent that he needs not bear the consequences of his actions.

Deputy President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, I think a quorum is not present in the Chamber to receive the forthcoming speech of the Chief Secretary.

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

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

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

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, please speak.

MR LEE CHEUK-YAN (in Cantonese): President, the Chief Secretary is also present today and I wonder what kind of mood she is in when speaking on behalf of the Government. At the last meeting, she said she was "persecuted for righteousness' sake". I have never seen anyone so self-righteous, who may even take the place of God and decide who will make it to heaven or go to hell. I was

really impressed by her authority. I wonder how she feels today, but I hope that she will truly express her feelings or speak from her heart as she is here today to pave the way for injustice.

When the Chief Secretary spoke earlier on, I have listened attentively to see what impressive arguments could be made. However, I only heard that she has shamelessly read out again the pledges made by LEUNG Chun-ying when he ran for the office of the Chief Executive. The fact is, both Dr Helena WONG and Ms Cyd HO have already read aloud the pledges, but the Chief Secretary has so daringly read aloud one more time. People believe LEUNG Chun-ying would honour his pledges by seriously considering the recommendations made by the Independent Review Committee chaired by former Chief Justice of the Court of Final Appeal, and strictly implementing them as soon as possible.

The Chief Secretary then went on to say that the Government's position has remained unchanged. Her remarks about the Government's unchanged position have aroused my suspicion that she has some information to disclose. She has, however, unexpectedly uttered the "all-purpose terms" most commonly used by the Government to renege on its pledges, including "holistic consideration, expeditious completion, timely implementation". Regardless of whether the issue under discussion is the offsetting arrangement for Mandatory Provident Fund contributions against long service payments or the present proposal to amend the Prevention of Bribery Ordinance, the Government will use those "all-purpose terms" to renege on its pledges by shamelessly uttering "will make holistic consideration and timely implementation".

May I ask the Chief Secretary what conclusion has been drawn after considering the matter for three years? What is meant by "timely"? Is it "timely" only when LEUNG Chun-ying leaves office and prosecution pertaining to the UGL incident can no longer be institute against him? Will the UGL incident remain under the carpet so long as LEUNG Chun-ying is in office, and it is "timely" only when he step downs?

Does the Chief Secretary know what she is talking about? Instead of being "a courageous government official with no expectation" as she claimed, I would say she is "an immoral government official with no expectation". She not only delivers a speech devoid of content, aiming at fooling Hong Kong people, she also has not provided any implementation timetable. Worse still, she then continued to argue in an attempt to overturn the government's decision to implement the recommendations, stressing the need to comply with the Basic

Law, and highlight the constitutional issue. She said that although all Hong Kong people shall be equal before the law, it does not mean that one single law is sufficient to serve different purposes. It is therefore essential to implement or enforce different laws. She has also shed particular light on the Chief Executive's unique constitutional status, which is precisely the same point put forward by Mr TAM Yiu-chung at the last meeting. They are echoing each other's views to highlight the unshakable constitutional status of the Chief Executive. Her explanation of this unique constitutional status is, given that the supervisor of LEUNG Chun-ying is the Central Authorities in accordance with the principle of "one country, two systems" under the Basic Law, hence there is a need to find out who his supervisor is if he is required by the law to declare interests to his supervisor. This is precisely where the problem lies. Likewise, owing to the same reason that LEUNG Chun-ying does not have a supervisor under the principle of "one country, two systems", Andrew LI proposed to set up an Independent Committee jointly appointed by the two persons holding respectively the posts of the Chief Justice and the President of the Legislative Council. Although thorough consideration has been made by Andrew LI, the Government kept bringing out the same issue time and again by harping on the same old tune. What holistic consideration has actually been made by the Government? In my opinion, the Chief Secretary is merely fooling us around.

I think LEUNG Chun-ying has secured a very advantageous position as he is not subject to any control, and can fully exploit the loopholes under the principle of "one country, two systems". Should there be only "one country", this would be a serious issue and he would have been subject to "investigations at the prescribed time and place". In the UGL incident, he had not only received \$50 million, but as pointed out by a number of Members (including Mr Alan LEONG), he had received the money after assuming office as the Chief Executive. Although he was the Chief Executive-elect when he signed the undertaking, the money was received after he was sworn in as the Chief Executive. He has fully exploited the loophole under the principle of "one country, two systems". He would have been placed under "investigations at the prescribed time and place" under the system of "one country", but the principle of "two systems" has obviated the need for him to declare interests in the absence of a supervisor. As a result, he has become the happiest man under the "one country, two systems" principle by fully exploiting the loophole to reap the greatest benefit. He is not subject to "investigations at the prescribed time and place", neither is he subject to the control of the Communist Party or Hong Kong people. He has completely gone scot-free and unrestrained. It is as simple as this.

Members urged that he should not be allowed to go scot-free and legislation should be enacted to govern such behaviour in Hong Kong. However, the Government fooled us by saying that the recommendations would be timely implemented. But as we can see, this is nothing but a stalling tactic. Although equality before the law can be achieved by establishing a clear mechanism, which was also considered viable by former Chief Justice Andrew LI, the Government has refused to do so. At present, there is no mechanism, no check and balance and no control. LEUNG Chun-ying has not only gone unrestrained under the "one country" principle, he is also beyond the control of the Communist Party of China and Hong Kong people. He can therefore continue to get away with the receipt of \$50 million, which is extremely unjust. Thank you, President.

DR PRISCILLA LEUNG (in Cantonese): President, as stipulated in Article 25 of the Basic Law, "all are equal before the law" in Hong Kong. Article 47 also stipulates that the Chief Executive must be a person of integrity, dedicated to his or her duties, and on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal. These have all been clearly provided in the Basic Law. Hence, I do not think the status of the Chief Executive of Hong Kong will be above the law.

The main purpose of today's motion debate is how to improve the existing system. As a matter of fact, the current system does not allow the Chief Executive to subject to no control while others are bound by the law. A case in point is the recent case concerning the former Chief Executive, Mr Donald TSANG. As the authorities could not institute prosecution against him under statute law, they charge him with the offence of "misconduct" under common law. Of course, as this case is still in process, I will refrain from making any further comments.

The subject of our debate today is how to improve the existing system. In 2012, the former Chief Executive was involved in certain incidents that were incompatible with his official capacity. Subsequently, the Chief Justice put forward a number of recommendations which I consider worthy of our serious consideration.

We frequently talk about sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance), but I think other sections are also worth looking into. I believe that the clearer the law is written, the better it will be for the Chief

Executive. The reason is that if we go strictly by the common law, some senior officials, including the Chief Executive, may not be aware that some actions taken by them may be liable to prosecution under the common law. Even Mr Donald TSANG might not have expected that he would get into such trouble under common law. Hence, it seems to us that it is unfair in the case of the Chief Executive. Some colleagues also said that it was unfair. But that is only a matter of perception and that might be the impression of the general public. If the two provisions of the Ordinance are not applicable to the Chief Executive, it gives people the impression that the Chief Executive is not bound by the law in that respect, but the fact may not be so.

When we discuss this subject, I think we should avoid targeting at individuals instead of facts. I hear many colleagues keep talking about the incumbent Chief Executive and the UGL incident. But the subject of our present discussion is amending the legislation and any legislative amendments will have an impact on the future Chief Executive. According to the general principles, any piece of legislation should not have retrospective effect. Hence, we should calmly discuss how to improve the system. I think that will also benefit the incumbent Chief Executive in the sense that he can avoid falling into legal traps easily. For example, as Members, we have to make a number of declarations, and we also hope that the Legislative Council will give clear elucidation.

According to Recommendation 16 in the report of the former Chief Justice, it is a criminal offence for the Chief Executive to accept any advantage without the permission of a statutory Independent Committee; and Recommendation 17 provides that members of the Independent Committee should be appointed jointly by the Chief Justice and the President of the Legislative Council. I think these recommendations are open to discussion because of the special role of the Chief Executive. As the Chief Executive is accountable to the Central Authorities and the SAR, the scope of this "accountability" may indeed exceed the establishment of the SAR, that is, the Chief Justice and the President of the Legislative Council may not have the full authority to monitor and oversee the Chief Executive's performance or the conflict of interests that he may involve in, as this may involve the Central Authorities. For example, Article 73(9) of the Basic Law stipulates that the motion of impeachment, after being passed by the Legislative Council and going through other procedures, has to be reported to the Central People's Government. From this we can see that the requirements concerning checks and balances under Article 73(9) are different from those stipulated under Articles 50 and 52. Under Articles 50 and 52, the Chief Executive may dissolve

the Legislative Council or the Legislative Council may force the Chief Executive to resign under extreme circumstances but the two Articles do not provide that such actions are to be approved by the Central People's Government or to be reported to the Central People's Government. Article 73(9) refers to the Chief Executive's misconduct and breach of law, which may involve criminal offences, and hence the Central People's Government has a role to play. But who and what departments in the Central People's Government may play this role? I think the Government should seriously consider these matters and the best way to deal with such matters is to be open and honest. When studying sections 3 and 8 of the Ordinance, does the Government find it difficult to deal with the above matters under the present civil service system? We would like to know what the Government's findings are. The Government may even agree to my proposal, which is quite controversial as it involves the relation between the Central Authorities and Hong Kong, and it may not consider the recommendations put forward by the former Chief Justice the most desirable.

Personally, I think Mr Alan LEONG's amendment is directed against the incumbent Chief Executive; it is concerned with individuals but not facts. As regards the amendment demanding the completion of the legislative procedure within a limited period of time, I believe it is hard to achieve. I think the original motion and Mr TAM Yiu-chung's amendment are both acceptable. I have some concerns about the last sentence of the original motion regarding plugging the loopholes in the law so that the Chief Executive will not be above the law. To me, it is not so good. However, basically I do not object to the original motion.

President, I so submit.

MR KENNETH LEUNG (in Cantonese): President, according to the Corruption Perceptions Index 2014 just released by the Transparency International, an international anti-corruption organization, the ranking of Hong Kong dropped for the third year in a row to 17th among 175 countries around the world, two ranks down as compared to 2013. Among the Asian countries, Hong Kong ranked lower than Singapore and Japan. In recent years, incidents of senior government officials suspected of having conflict of interests or accepting advantages have happened from time to time in Hong Kong, and some officials had been prosecuted and convicted. Members of the public are thus worried about the deteriorating clean governance as well as clean business environment of Hong Kong.

President, to maintain a clean government and business environment, we absolutely cannot rely on the conduct or integrity of individuals; instead, we also need a sound monitoring system. In 2012, the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee) submitted a detailed report, putting forward 36 recommendations for refining the declaration system and regulation of officials under the Political Appointment System. Among these recommendations, the most important one is the enactment of legislation to regulate and deal with the solicitation and acceptance of advantages by the Chief Executive.

President, the argument of the Independent Review Committee is simple, straightforward and easily comprehensible, that is, everyone is equal before the law and the Chief Executive shall not be above the law. Since politically appointed officials and civil servants are subject to the same strict regime regarding the solicitation and acceptance of advantages, the Chief Executive, as the leader of the SAR Government, should likewise be strictly regulated. The Independent Review Committee had put forward specific recommendations regarding the amendment and enforcement of the legislation.

Just now, although many colleagues have already talked about the application of sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance), I do not mind reiterating once again. First, extend the application of section 8 of the Ordinance to the Chief Executive. Section 8 provides that anyone who, without lawful authority or reasonable excuse, while having dealings with a government department or public body, offers advantages to a prescribed officer, shall be guilty of an offence. Second, set up a statutory Independent Committee to consider and decide whether or not to give general or special permission to the Chief Executive to solicit and accept advantages, and extend the application of section 3 of the Ordinance to the Chief Executive, rendering it a criminal offence for the Chief Executive to solicit or accept any advantage without the general or special permission of the statutory Independent Committee.

However, no progress has been made with the implementation of the above legislative proposals over the past three years. According to the explanation given to the Legislative Council by the SAR Government, more than half of the recommendations in the Independent Review Committee report, including the formulation of rules and guidelines on conflict of interests and acceptance of

advantages and entertainment by politically appointed officials, have been implemented. Nevertheless, as regards the Chief Executive, the most important political figure in the SAR, the Government's response is that since the recommendations have constitutional, legal and operational implications and may have impact on the existing legislation, it needs to handle them prudently and study them in an in-depth and holistic manner.

In fact, whether a legislative amendment is concerned with a Director of Bureau or a Secretary of Department, it will inevitably have constitutional, legal and operational implications. Therefore, I think this is obviously an excuse. If the Government considered that amending the Ordinance would have constitutional implications, why did it not promptly consult the Central Authorities or report the progress of the enactment of legislation to the Legislative Council but used "constitutional implications" as an excuse?

Having listened to the authorities' repetitious and vague response, and seeing its failure in giving an account of the progress of the work, I am doubtful if the authorities are willing to carry out the relevant legislative work to improve the quality of clean governance in Hong Kong. I hope the SAR Government will look into this matter seriously, because we all know what had happened over the past two or three years, including the licensing of the Hong Kong Television Network and the UGL incident. These incidents were not simply the politicization of certain issues but they were all involved with the clean governance of Hong Kong. More importantly, they have adverse impacts on the business environment of Hong Kong. The Commercial Radio of Hong Kong will apply for licence renewal soon. If issues of this kind are not reasonably settled, the status of Hong Kong as an international financial centre will definitely be seriously jeopardized.

With these remarks, President, I support Dr Helena WONG's motion and the amendments proposed by Mr Alan LEONG and Ms Cyd HO.

MR YIU SI-WING (in Cantonese): President, I agree that all are equal before the law. If the Chief Executive breaks the law, he should be penalized by the law like the common people. However, I do not agree to extend the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive for two reasons.

First, corruption acts on the part of the Chief Executive are already regulated by the existing laws, including the Basic Law, the common law and the Prevention of Bribery Ordinance (Ordinance). According to Article 47 of the Basic Law, the Chief Executive must be a person of integrity, dedicated to his or her duties. Under the common law, the Chief Executive is subject to the offences of bribery and misconduct in public office. Under section 101I(1) of the Criminal Procedure Ordinance, persons convicted of the relevant common law offences shall be liable to imprisonment for seven years and a fine.

In 2007 when the Ordinance was amended, the application of sections 4, 5 and 10 was already extended to the Chief Executive, to the effect that if the Chief Executive solicits or accepts any advantage from others; solicits or accepts any advantage from others on account of assisting anyone in entering into contracts; or maintains a standard of living or controls property disproportionate to his emoluments, he shall be guilty of an offence. The bribery-related provisions of the Ordinance applicable to all persons, such as sections 6, 7 and 9, are also applicable to the Chief Executive. The recent indictment of the former Chief Executive by the Independent Commission Against Corruption on two charges of misconduct in public office reveals that all are equal before the law. Misconduct on the part of the Chief Executive is already regulated by the existing laws, and there is no way that the Chief Executive can enjoy a status which is above the law.

Second, section 3 of the Ordinance is not applicable to the Chief Executive because of his special constitutional status. According to section 3, any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence. The need for civil servants to obtain permission from the Chief Executive before accepting any advantage arises from the Chief Executive's authority to lead the Civil Service. This authority is assured in the first paragraph of Article 43 and Article 48(1) of the Basic Law. Under "one country, two systems" and with the authorization of the Central Authorities, the Chief Executive enjoys a unique constitutional status.

If the application of section 3 of the Ordinance is extended to the Chief Executive, since the Chief Executive cannot grant himself permission in the first place, permission would have to be granted to him by a higher authority. In 2012, the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests recommended that a statutory Independent

Committee should be established to grant permission to the Chief Executive to solicit or accept any advantage. If this recommendation is to be implemented, I think the biggest problem will be the constitutional status of that Independent Committee. According to Article 15 and the second paragraph of Article 43 of the Basic Law, the Chief Executive is appointed by the Central Authorities and shall be accountable to the Central People's Government. The Chief Executive enjoys a paramount constitutional status in the SAR Government, and he is directly accountable to the Central Authorities. If an Independent Committee is to grant permission to the Chief Executive, the constitutional status of such a committee must be higher than that of the Chief Executive. In that case, the Independent Committee is already outside the framework of the SAR Government as far as its constitutional status is concerned. Hong Kong has no constitutional right to establish a committee that transcends the Chief Executive and such an act would also go beyond the powers of the Legislative Council.

If the Central Government believes that the existing laws in Hong Kong are inadequate to regulate the acceptance of advantage by the Chief Executive, the Central Authorities should establish a similar committee as above under the framework of our national laws, or authorize an official from the Central Government to grant approval or permission for the acceptance of advantage by the Chief Executive. The SAR Government and the Legislative Council can also communicate with the Central Authorities, convey their aspirations to them and request for a decision therefrom, where necessary. The decision made by the Central Authorities must comply with the Basic Law and the constitutional status of Hong Kong. It has to go through a stringent process.

Sections 3 and 8 of the Ordinance are interrelated. When a public officer accepts a reasonable advantage with the permission of the Chief Executive, the person offering the advantage will certainly not be guilty of an offence under section 8. Similarly, if section 3 is not applicable to the Chief Executive, section 8 cannot be invoked to merely target at the person offering the advantage.

In conclusion, I oppose the original motion but support Mr TAM Yiu-chung's amendment, which proposes to study matters related to the establishment of an Independent Committee for resolving constitutional problems under the framework of the Basic Law.

I so submit.

MRS REGINA IP (in Cantonese): President, in order to prepare for today's debate, I have carefully studied the Prevention of Bribery Ordinance (Ordinance). I found that this Ordinance has actually been well thought out and carefully designed, with different provisions applicable to different public officials. As a number of Honourable colleagues have pointed out, section 10 applies to the Chief Executive while some provisions apply to prescribed public servants, and some to prescribed officers. I notice that in the paper submitted by the then Office of the Chief Secretary to the Legislative Council in 1999, it was specified which provisions were not applicable to the Chief Executive; for example, sections 3, 4(2), 4(3), 5(2), 10, 12, 12AA and 16. The paper also mentioned that a number of provisions such as section 4(1), 5(1), 6, 7, 8, 9, 11, 12(1), 12A, 13 and 13C were applicable to the Chief Executive as well as other members of the public.

However, I would like to tell the incumbent Chief Secretary, this issue has nothing to do with her because the paper was submitted to the Legislative Council in 1999. The then Chief Secretary got it wrong; section 8 is not applicable to the Chief Executive while section 10 is. There is a mistake in the paper. In any case, these facts prove that it is definitely not true that "no criminal liability to be borne by the Chief Executive" or the principle that "all are equal before the law" has been violated.

At that time, the drafting and amendment of the Ordinance were well thought out and the persons to whom specific provisions applied were specified. For example, in relation to section 3, "soliciting or accepting an advantage", it is stated in the report published by the former Chief Justice Andrew LI that, the provision on accepting an advantage is not applicable to the Chief Executive, and it is also not applicable to Non-Official Executive Council Members; and the former Chief Justice Andrew LI also agreed to this point. According to him, Non-Official Executive Council Members are drawn from many different fields in the community, and they are involved in the community in various capacities and are usually fully engaged in various fields. As they are drawn from many different fields, there would be the benefit of collective wisdom. However, they serve only part-time, it is inappropriate to apply to them what is essentially the same regime as that for politically appointed officials and civil servants in relation to the acceptance of advantages and entertainment. I think this is correct. Also, none of the provisions of this Ordinance applies to Legislative Council Members; has the principle "all are equal before the law" been violated, President?

This Ordinance is rather ancient and it was last revised in 1971. At that time, Legislative Council Members were rubber stamps just like "political vases" and they did not have real power. Since the executive authorities had real power, the authorities considered that it was unnecessary for the Ordinance to apply to Legislative Council Members. Nevertheless, the situation today is different; Legislative Council Members have strong veto powers, especially Members who chaired the meetings of statutory committees such as the Finance Committee, the Public Works Subcommittee and the Establishment Subcommittee as they are vested with statutory powers.

In addition, the Rules of Procedure strictly regulated conflict of interests. At one time, an Honourable colleague chairing a meeting allegedly failed to declare interest or had conflict of interest, thus causing an uproar. That being the case, why do not we consider why sections 3 and 8 of the Ordinance or all provisions of the Ordinance are not applicable to Legislative Council Members? I hope Honourable colleagues would pay attention to the matter.

I think sections 3 and 8 of the Ordinance do not apply to the Chief Executive for a reason, in addition to providing in section 3 that officers should have the permission of the Chief Executive to accept an advantage, I believe the then British Administration in Hong Kong had also considered an important constitutional principle. The then Governor represented the Crown — the Crown in the broad sense — the Governor did not represent the British royal family but the sovereign state. He had high standing under the constitutional system and he would only be subject to regulation by the United Kingdom, the sovereign state.

Section 10 of the Ordinance provides that the Chief Executive is guilty of an offence for possession of unexplained property. This provision obviously applies to the Chief Executive. I believe the authorities at that time also considered that, just like Non-Official Executive Council Members, the Chief Executive had extensive responsibilities and he would meet with people from various walks of life in the community, and the proceedings of some meetings or other matters might sometimes had to be kept confidential. It was very inappropriate to require him to give accounts of all matters to the three-member committee appointed by the Chief Justice and the President of the Legislative Council.

This is tantamount to asking the Chief Executive to give a full account of his official business to the three so-called persons of high standing. This practice is very inappropriate and there are huge risks. Nowadays, who really are persons of high standing? President, you may be one of them. I believe people do not regard vice chancellors of universities having high standing; even the Head of a medical school department was pushed over by other people, and many people think that Prof LO Chung-mau, who is so accomplished in medicine, does not have high standing. A lot of people also think that my colleague Arthur LI does not have high standing.

So, who are persons of high standing? How should we maintain confidentiality? President, the issue of confidentiality has recently caused uproars. Some people say that confidentiality is important and I believe the lawyers present certainly know that confidentiality agreements must be signed as part of the mediation process. Confidentiality is not only important in the statutory mediation process, it is also important in daily affairs. But some young people said that members of the public have the right to information and they should always be informed. However, in an era when social values are so confused, is there a committee having high standing so that we can entrust its members to comprehensively review the daily activities of the Chief Executive and decide to give permission for him to accept or not accept certain advantage?

President, although the recommendations made by the Independent Review Committee led by former Chief Justice Andrew LI are based upon comprehensive and profound legal principles and have a good starting point, I think judges probably do not understand the work of the executive authorities, so the recommendations they made can hardly be implemented and are constitutionally inappropriate. Based on this principle, I cannot support Dr Helena WONG's motion and other amendments and I can only support Mr TAM Yiu-chung's amendment. Let us carefully study this issue, including whether the provisions on the acceptance of advantages (*The buzzer sounded*) ... should also apply to Legislative Council Members.

MS CLAUDIA MO (in Cantonese): President, when we learned that Carrie LAM would come to the Legislative Council today to brief us, we expected that she would offer an explanation to address our concerns. However, we became more anxious. She has been repeating herself, saying that former Chief Justice of the Court of Final Appeal Andrew LI did not have adequate knowledge in

judicial, legislative and administrative matters, and that the recommendations put forward by him were impracticable and could not be implemented. "Take a look at Article 43 of the Basic Law, such recommendations are impracticable." If that is the case, how come she has never raised such a view before? She just kept repeating that the Chief Executive of the SAR has a unique status and every one of us has to uphold the Basic Law. How come she has never expressed such a view?

When Andrew LI's report was first published, it was quoted by many colleagues and even LEUNG Chun-ying said it was "something good" (something like that), and he would "implement them as soon as possible". How soon? Obviously, they cannot be implemented as soon as possible. Then the Chief Secretary justified her claims for not implementing the recommendations, that is, "the Chief Executive has a unique status". Please note that Carrie LAM only used the term "unique" rather than "transcendent" or "override". She only kept telling us that the Chief Executive has a unique status, so unique that no one can interfere with his acceptance of advantages. That is the message. All in all, that is what the Basic Law has stipulated. However, if that is what the Basic Law stipulates, then why is it that ZHANG Xiaoming, the representative of the "Western district", described the Chief Executive of Hong Kong as having a "transcendent" status when he was haranguing about the Basic Law on an open occasion, why is the term "transcendent" not mentioned now? Why is it that no one from the administration has corrected him, telling him that "transcendent" was not an appropriate term and he could merely use "unique" instead? LEUNG Chun-ying also admitted that his status and position are transcendent, and he is now above the law. That is why sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) do not apply to him. He is telling us implicitly, not openly, but everyone should understand that the Chief Executive has a somewhat transcendent status and he is above the law.

If so much importance has been attached to the Basic Law, why didn't anyone try to rectify what Elsie LEUNG, the former Secretary for Justice, said? She said openly that there was an unwritten rule — I wonder which ordinance she was referring to — that the incumbent Chief Executive could not be prosecuted. "Hong Kong, Our Advantage is the ICAC" is a famous quotation still embraced by many in Hong Kong. No matter how hard the ICAC officers do their work, they have to abide by the Ordinance, but sections 3 and 8 do not apply to the Chief Executive. As such, some people query why Donald TSANG, the former Chief Executive, is charged with a minor offence of misconduct in public office

but not with accepting advantages. It is very difficult to establish a relationship between the two. But if one says that we cannot charge the Chief Executive with accepting advantages because of his unique and transcendent status, then in the case of misconduct, why can't his transcendent or unique status be considered?

According to this logic, this Chief Executive should basically live in a "bubble", and he should be untouchable, that is, he may not even be liable to pay fines for illegal parking. As such, three years later, LEUNG Chun-ying will not come here to explain. When people ask him about the UGL incident, he will say that he has nothing to add. He will only send a subordinate to tell us some earth-shattering news, that is, owing to the Chief Executive's unique status, it is very difficult to enact legislation on bribery to regulate the Chief Executive. That is something out of the question. Why has such a concept suddenly emerged? Now we understand why ZHANG Xiaoming suddenly came up with the "transcendence theory". Why was the Chief Executive transcendent? The purpose was to pave the way for this. But the term "transcendence" sounds too artistic, like some surrealism art, and "supersede" is a legal term and they do not dare use it; so now they can only use "unique". Well then, let us leave the Basic Law for them to interpret as the whole spirit is all there.

With Article 47 of the Basic Law stipulating that the Chief Executive, when assuming office, shall declare his or her assets to the Chief Justice, people can argue that he has already declared his assets and the declaration has been put on record. The record is confidential and the declaration has to be done just once. Let us take a look. In English it says "this declaration", which is singular, meaning the action only needs to be taken once. Now she talked to us about the spirit again. Then, I would like to ask, according to the spirit of Article 47, what is the meaning of integrity. Does it simply mean as long as the Chief Executive declares his/her assets once, be it out of courtesy or ceremonial requirement, that should be fine and there is no problem? Then, where is the spirit? They keep saying the Basic Law should be so and so, but when someone in this Government could lightly say that the Sino-British Joint Declaration had expired and no longer existed, and if government officials could say whatever they like, how important is this insignificant Basic Law?

President, the government officials are not only shameless, they have also lost all senses of propriety, justice and integrity.

MR ALBERT HO (in Cantonese): President, on the question whether sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) should apply to the Chief Executive, Chief Secretary Carrie LAM said at the beginning of her speech mentioned that the Chief Executive had stated in his manifesto that he would seriously consider the recommendations of the former Chief Justice Andrew LI and strictly implement them as soon as possible after he had taken office. She also said that this remains the position of the Chief Executive and the SAR Government. After listening to her remarks, I really do not know why she can still say so. She pointed out that they have to look into some constitutional issues, but after studying these issues for nearly four years, even the nature of the constitutional issue that the Chief Executive cannot be transcendent ... How can the problem be solved? In fact, things are not complicated, all she has to do is to propose a solution or tell us that there is no solution. If there is a solution, what controversies will arise? The authorities do not want to propose any solution and they do not have the motive to do so, so how can he say that he would strictly implement the recommendations as soon as possible? Therefore, what the Chief Secretary said at the beginning of her speech gave me an impression that she was insincere and that she did not mean what she said. What then is the purpose of making such remarks? She might as well say that there are immense difficulties and she cannot find a better way to solve the problem.

Second, if this issue is elevated to such an extent that the special constitutional status of the Chief Executive is regarded as inviolable, I think the issue has been overplayed. In fact, what we should consider is how the provisions of the Ordinance should provide a mechanism within a specified narrow range that enables the Chief Executive to dispel any suspicion of his involvement in bribery and corruption. As a matter of fact, there is presently a mechanism that serves such purpose. Under this mechanism, common sense or a sense of decency is used to determine if something is reasonable. If I were the Chief Executive, I would consider it highly desirable for someone to tell me whether I should accept advantages or not, how would I consider that the dignity of the Chief Executive is violated?

The aforesaid issues had also been considered in the report of the former Chief Justice. He made it clear that if an Independent Committee was set up to approve the acceptance of advantages, the Chief Executive and the Independent Committee did not have a principal-agent relationship. Why should this issue be overplayed and politicized?

President, in paragraph 4.91 of the report of the Independent Review Committee, it is stated that the status of the Chief Executive is taken into account in having an appointment authority for the Independent Committee at the highest levels in the SAR. The recommended regime with an Independent Committee would not compromise the status of the office of the Chief Executive. On the contrary, by applying to him what is essentially the same regime as that for the politically appointed officials and civil servants led by him, the standing and the honour and dignity of that office would be enhanced. The absence of a principal-agent relationship between it and the Chief Executive is not an obstacle to the establishment of the proposed mechanism. The fact that the Chief Executive is subject to other provisions of the Ordinance and the common law and to public scrutiny is beside the point.

President, Mr Andrew LI had thought this out and I believe he had a good understanding of the fundamental principles and spirit of the Basic Law and he had considered these issues. However, all out of a sudden it is now declared that this approach is unfeasible because this will violate the dignity of the Chief Executive and ruin his so-called special constitutional status. Moreover, to a certain extent, the Central Authorities' powers seem to have been usurped. This argument is really quite distorted.

Mrs Regina IP said a while ago that not many people have high standing. It is true that nobody can say who are born to have high standing and this person will not change or he will not be involved in corruption. In fact, there is no such person and even the Chief Executive himself, people who monitor him and judges may also be involved in corruption. We emphasize institutional checks and balances but we are not saying that people appointed to take up special monitoring duties must be saints. Therefore, I think the arguments presented by Mrs Regina IP are logically distorted.

In fact, the successful enactment of legislation has a big advantage, that is, the Chief Executive will not accidentally fall into a trap. If he is not monitored by anyone, he would relax his vigilance, thinking that what he has done must be legitimate because he is not subject to regulation under the Ordinance. As the Chief Secretary has just said, the common law also regulates the misconduct of public officers. If we have a good monitoring system, I believe the former Chief Executive would at least not be embarrassingly accused of having inappropriately accepted entertainment or gifts from the tycoons. If there is a committee, he will be reminded or approval will be given. Thus, this would be beneficial to him.

Lastly, I hope the Chief Secretary would tell us frankly if officials from the Central Authorities have privately interpreted the law, thereby disallowing the continuance of studies, such that the Chief Executive will not be investigated during his term of office and he will not (*The buzzer sounded*) ... be prosecuted or brought to trial. Is this the situation as mentioned by Elsie LEUNG?

PRESIDENT (in Cantonese): Mr HO, your speaking time is up.

PROF JOSEPH LEE (in Cantonese): President, Mr SIN Chung-kai, my name is "LEE Kok-long".

President, first of all, I have to declare that I am a member of the Operations Review Committee of the Independent Commission Against Corruption. The issue of our discussion today is indeed very straightforward, which arises because sections 3 and 8 of the existing Prevention of Bribery Ordinance (Ordinance) provide that they "do not apply to the Chief Executive", this is clear enough. Against this background and previous events, I recalled that in 2008, the Government advised that it was inappropriate to amend sections 3 and 8 of the Ordinance because, *inter alia*, Article 47 of the Basic Law provided that the Chief Executive must be a person of integrity, and gifts received by the Chief Executive out of courtesy would be recorded in the Register of Gifts Presented to the Chief Executive established by the Chief Executive's Office for public inspection. While it appears that there is sufficient safeguard, it has been nearly seven years when the remark was made in 2008.

As a matter of fact, the occurrence of several incidents in a row has stirred up a mixed feeling of expectation and suspicion among members of the public, wondering why sections 3 and 8 of the Ordinance remain inapplicable to the Chief Executive or Executive Council Members, and no amendment has been made to the relevant law to meet public aspirations amidst those events. The enactment of proper legislation would allow members of the public to rest assured that the Chief Executive will not commit bribery or corruption offences, and even if he will, we have already put in place a check and balance system, which is essential.

In this connection, the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee), set up by the former Chief Executive in 2012, clearly stated in its

report that regulations should be made to govern the corrupt practices of the Chief Executive. In relation to this point, the report also stated that with respect to the solicitation or acceptance of advantages, the Chief Executive should be governed in the same way as civil servants. In response, the Government said that there were constraints in applying section 3 due to various reasons, including constitutional issue. But even if the Chief Executive has unique constitutional status as claimed by the Government, but as our colleagues have said earlier, the Independent Committee proposed to be established by the Review Committee only gives permission, or in some cases, advance permission for the Chief Executive to accept advantages, which should not have any direct implication on the constitutional status of the Chief Executive. Most importantly, as pointed out by the Independent Review Committee, it is totally inappropriate for the Chief Executive to decide on the solicitation or acceptance of advantages for himself without subjecting to any checks and balances, as provided under section 3. This is precisely why the Independent Review Committee has recommended the establishment of an Independent Committee, which seeks to demonstrate that as the head of civil servants, the Chief Executive is not self-regulatory but subject to checks and balances, with a view to setting a good example for all. As Mr Albert HO has said earlier, this would in turn boost people's confidence in the entire governing team, which was one of arguments presented back then.

Another argument is, since the Government again considered that there were difficulties in amending section 8, thus no amendment could be made. Nonetheless, the Independent Review Committee considered that the establishment of a statutory Independent Committee could be a solution to the issue and enhance the credibility of the Chief Executive in the system. This is not a question about the overriding status, the Basic Law or constitutional issue, but the need to boost public confidence. With the Independent Committee serving as a check and balance, the Chief Executive may dispel any suspicion about corrupt practices, which is the most important function of the Independent Committee.

While colleagues have divergent views on the matter, the Chief Secretary also has her viewpoints. To put it simply, under the present circumstances, if a complicated system is introduced all of a sudden to monitor the Chief Executive through prolonged procedures, people may have different considerations. But as pointed out by a colleague, and certainly some Members may disagree, if all Hong Kong residents are equal before the law in accordance with Article 25 of

the Basic Law, then should the Government, based on this principle, expeditiously implement the recommendations made by the Independent Review Committee in 2012 to establish a system to highlight that the post of the Chief Executive — it is the post but not the person — is also equal before the law. This should not, in my opinion, give rise to any conflict.

Above all, the incumbent Chief Executive LEUNG Chun-ying undertook on 31 May 2012 to expeditiously examine and review the issue, and implement the abovementioned recommendations. In other words, he also failed to see how the recommendations put forward by the Independent Review Committee would cause disputes, or could not be implemented for constitutional reason. Certainly, the Government now claims that there are practical constraints, but after a lapse of almost three years and with only 10 months or so left for the current term of the Legislative Council, and more than half-way through the incumbent Chief Executive's term of office, how come the relevant recommendations are still under study and cannot be implemented? Just now, Members have also asked what exactly the difficulties are. If the Government argued that there is constitutional constraint, we doubt its existence as the proposed Independent Committee does not seek to govern the Chief Executive, but only to provide flexibility for him to make the necessary adjustments. It has been quite some time since the recommendations were made, but they are still not ready for implementation. Members of the public are doubtful whether the Government has really encountered difficulties or there are other reasons.

Lastly, I must say that integrity is the cornerstone of Hong Kong, and it has taken some two to three decades for us, including the Hong Kong Government, civil servants or members of the public, to lay this cornerstone. It is utterly disappointing for the Government to turn a blind eye to the deficiencies of the proposed system and refuse to conduct any review, or remain indifferent despite knowing that the checks and balances built into the said system could demonstrate to all that the post of the Chief Executive will also be subject to control.

Thank you, President.

MR PAUL TSE (in Cantonese): President, under the present law, the Chief Executive is just like anyone else. If he commits any offences concerning bribery while voting, in an auction or in any circumstances that he acts as an

agent, he is liable to prosecution. Under the present legal system, that is, the common law, in the case we are familiar with, Mr Donald TSANG has recently been charged with misconduct in public office, and some Legislative Council Members had also been prosecuted and convicted previously. Both the Prevention of Bribery Ordinance (Ordinance) and the common law, whose scope is wider and penalties heavier, are applicable. Now the crux of the problem lies with two loopholes, which are sections 3 and 8 of the Ordinance, and whether this is the right time to plug them.

President, let me briefly talk about why I do not agree to what Mr Alan LEONG said in his speech and his amendment. The main reason is that the UGL incident has nothing to do with this motion, unless Mr Alan LEONG wishes to gain political capital or attack his opponents. Actually, it is possible to charge LEUNG Chun-ying in the UGL incident. As I have said, according to the principles of the common law or under section 9 of the Ordinance, if during his dealings with UGL at that time, LEUNG Chun-ying, in his capacity as an agent, had accepted advantages improperly without informing the principal, including the board of directors of DTZ Holding Inc., the administrator Ernst & Young or the creditors of DTZ Holding Inc., he might have breached section 9 of the Ordinance or similar provisions in the Australian or British laws. Hence, the Member should not use this case as a political reason to accuse the Government for not amending the relevant provisions.

Many colleagues have raised different views, and most of them think that it has something to do with the constitution. Perhaps the Hong Kong Government really has some insurmountable difficulties in connection with the constitutional problems, such that the Central Government has reservations over this matter. I believe that comparatively speaking, this argument is more probable.

However, President, unlike other cities in China, Hong Kong is a Special Administrative Region and people will not be subject to "investigations at the prescribed time and place" as in the case of members of the Communist Party of China. Under such circumstances, should we actively lobby the Central Government to accept the special situation in Hong Kong, and amend the relevant provisions as soon as possible, so as to address Hong Kong people's concerns and prevent Mr LEUNG Chun-ying's political opponents from continuously dishing the dirt on him and damaging Hong Kong's clean reputation? I think this point is worth considering.

President, the most important factor is that when the Ordinance was amended in 2008, the application of sections 4, 5, 9 and 10 were extended to the Chief Executive. At that time, the arguments put forward for objecting sections 3 and 8 to be made applicable to the Chief Executive have now been proven wrong. Of course, it is most important to note that in paragraph 4.60 of the report of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee) chaired by Andrew LI, the former Chief Justice of the Court of Final Appeal (Chief Justice), the five reasons raised at that time were mentioned. The Independent Review Committee analysed the Government's stance, justifications and intention in detail, and then made a decision accordingly. There seemed to be no particularly significant reasons why the five major difficulties cited in 2008 could not be overcome. As a matter of fact, they can actually be overcome.

The biggest problem lies with who is to approve the Chief Executive's declaration after section 3 is amended. At present, the Chief Justice's declaration is approved by the Chief Executive. If their roles are switched and the Chief Executive's declaration is to be approved by the Chief Justice, will it be more difficult to carry out? Will this arrangement make the status of the Chief Executive less transcendent? There are also technical problems involved. However, as recommended by the Independent Review Committee, the task can be performed by an Independent Committee, formed by the Chief Justice, the President of the Legislative Council and an independent person appointed by them. That is a relatively feasible solution. At least, under the principle of separation of powers, since the Chief Executive has the power to approve the Chief Justice's declaration, would it be acceptable for the Chief Executive's declaration to be approved by the statutory Independent Committee jointly appointed by the Chief Justice and the President of the Legislative Council, two relatively transcendent figures under the system of separation of powers?

The only missing piece in this jigsaw puzzle is certainly the issue about the China-Hong Kong relation. The three persons I have been talking about are representatives of the separate powers in Hong Kong. They can naturally approve each other, that is fair enough. However, if the China element is included, can we consider adopting the past approaches, including the mechanism relating to the Basic Law? For example, the Committee for the Basic Law comprises an equal number of members from the Chinese side and Hong Kong side. As in the case of the power of final adjudication of Hong Kong, it should have been vested with the Chinese People's Government or the Standing Committee of the National People's Congress, but now the Court of Final Appeal

of Hong Kong has been authorized to exercise the power of final adjudication in relation to matters within certain ambit. All these issues are all open to discussion and can be put into effect.

I have a preliminary and immature idea. Will it be feasible if we ask the Chief Justice and the President of the Supreme People's Court of China, instead of the President of the Legislative Council, to jointly appoint a third member of the Independent Committee? Or can the nomination be made by a relatively independent structure within the Central Authorities? If we have the will, we will always find a way. We cannot just keep procrastinating for so long without doing anything; or the Chief Executive cannot, though having made a pledge, honour his promise because of the objection of the Central Authorities. All these cases are undesirable. Under such circumstances, I tend to support Dr Helena WONG's original motion as I hope that the Independent Review Committee's recommendations can be implemented as soon as possible. However, we cannot completely and "strictly" implement the recommendations at a specific time, as proposed by Ms Cyd HO, for this will deprive us of any room for appropriate amendments. This is basically my stance.

Thank you, President.

MR JAMES TIEN (in Cantonese): President, I believe that nowadays, regardless of how the government system is formed, no government or its president or prime minister would consider that corruption is acceptable, and no government can say that its top post can be exempted from any legislation.

The problem is that various countries around the world have their respective approaches. How can we remove the Chief Executive from office in Hong Kong? This should be done through an impeachment mechanism, and an impeachment should certainly be supported by Legislative Council Members. But as the Chief Secretary has said, the Chief Executive has unique status under "one country, two systems". I also agree that he has unique status in the administrative structure. The appointment of the three Secretaries of Departments under the Chief Executive, in particular, the Secretary for Justice responsible for prosecution, the Commissioner of the Independent Commission Against Corruption and the Commissioner of Police, is recommended by the Chief Executive to the Central Government and endorsed by the Central Government.

On the problem of corruption, if the legislation passes through the Legislative Council, specifying under what conditions are deemed as corruption, and the Court, which enjoys judicial independence, makes a decision, the judicial proceedings will be initiated. These proceedings are initiated by the administrative authorities. If no investigation is carried out by the Independent Commission Against Corruption (ICAC) or the Police Force, or if there are no findings after the investigation, will the Department of Justice initiate proceedings? For example, in the incident involving Mr Barry CHEUNG, investigations have been carried out for two to three years, but what are the results?

As the Chief Executive has unique power, if he does not take the initiative to take forward the matter, the matter will be left unsettled. No problems have arisen during the years when the Chief Executive is in office. Another problem is that, after the Chief Executive has departed from office, for example, when former Chief Executive Donald TSANG no longer served as the Chief Executive and the Department of Justice, the ICAC and the Police Force were no longer accountable to him, would the relevant case be handled differently? I believe this is unacceptable in Hong Kong. All serving Chief Executives seem to be above the law, but after their departure from office, they would be subjected to reprisal; or it is a common phenomenon that the serving Chief Executive would investigate the former Chief Executive. This practice is hardly undesirable.

Of course, I also understand that, from the perspective of the Central Authorities, the power to remove the Chief Executive from office is actually in the hands of the Central Authorities. Although Legislative Council Members may submit motions on the impeachment of the Chief Executive, unless there is reliable evidence, corruption can hardly be defined if investigations are not conducted. For example, what kind of advantage was accepted? What kind of declaration was made? Former Chief Executive Donald TSANG only failed to declare the acceptance of advantages and he has not been involved in corruption. Can he be prosecuted for corruption? Members of the public consider this situation unsatisfactory.

Therefore, the Liberal Party opines that there is a need to address this issue. Do we need to propose immediate amendments to sections 3 and 8 of the Prevention of Bribery Ordinance? Conversely, Mr TAM Yiu-chung's argument is correct; in any case, the relevant provisions must comply with the constitutional provisions of the Basic Law.

We can adopt another perspective. For more than 10 years, the Central Government has undergone considerable changes. In particular, after President XI Jinping took office, he proposed to crack down on "tigers and flies". No matter how high-ranking the officials are, they should be severely punished if they take bribes. In addition, this year, high-ranking officials of the Central Government such as ZHOU Yongkang, LING Jihua, GUO Boxiong, XU Caihou had been subject to legal sanctions. This contravened the anti-corruption concept of the Mainland in the past, that is, the unspoken rules that "Politburo Standing Committee members enjoy criminal immunity, retired officials would not be investigated and the People's Liberation Army is untouchable".

I think the remarks made by a few Members are very correct and I also hope that the Central Authorities have noted this situation. If the Mainland can deal with high-ranking officials, members of the public will think that there is no reason why Hong Kong cannot do so. No matter how unique and transcendent the status of the Chief Executive is, I believe he could not be more transcendent than the abovementioned four officials of the Central Authorities who had stepped down.

If the Central Government is determined to fight corruption, I do not know if Hong Kong people or government officials would "courageously" implement the conclusions reached by the Independent Review Committee in 2012. Of course, there may be difficulties in specifically amending sections 3 and 8, but I do not think we should still be using delaying tactics a few years after the publication of the conclusions of the Independent Review Committee. I believe the public will not accept that.

President, on this issue, the Liberal Party has recently conducted an opinion poll and we only asked one simple question, unlike our lengthy debate just now. The question is: Do you think the Chief Executive should be regulated by the Prevention of Bribery Ordinance? The notion was supported by 70% of the respondents, disapproved by 10% while 20% had no opinion. Regarding this simple question, even though Hong Kong people may not have in-depth understanding of the Basic Law; they may not well understand the constitution and do not know whether the Chief Executive's status is transcendent or whether he enjoys a unique status in the administrative rather than legal and judicial aspects, they still have such an expectation.

If the Central Government is aware that Hong Kong people have such an expectation, I believe it will implement the recommendations as soon as possible. Hence, the Liberal Party supports the original motion and all the amendments, including the amendment proposed by Mr TAM Yiu-chung.

MR WU CHI-WAI (in Cantonese): It is the basic responsibility of all serving civil servants of the SAR Government to be a person of integrity and dedicated to his duties, and this is also the expectation of the community as a whole as well as every member of the public on the SAR Government, and in particular, the Chief Executive. Article 47 of the Basic Law clearly stipulates that the Chief Executive must be a person of integrity and dedicated to his duties, and should declare, on assuming office, his assets to the Chief Justice of the Court of Final Appeal (CFA) for record.

This is indeed a perfect reflection of the fact that, though the Chief Executive has transcendent status, he is expected to, in the face of regulations concerning the declaration of interests or anti-bribery laws, exemplify his role as the head of the SAR Government to ensure that all civil servants are persons of integrity and dedicated to their duties. Moreover, he should not enjoy any transcendent status that would exempt him from or leave him outside the scope of the regulatory regime which the entire Civil Service is subject to. This is the crux of the motion proposed by Dr Helena WONG today.

After the Government amended the Prevention of Bribery Ordinance (Ordinance) in 2008, the Independent Review Committee chaired by former CFA's Chief Justice Andrew LI also stated that, instead of relying solely on self-restraint to avoid the breaching the law, the Chief Executive should be subject to similar or no less rigorous standards as the persons he leads, such as politically appointed officials or the civil servants. We must understand that, this aims to send a message to the public that the regulatory regime will apply to all government officials and no one can override it. Sections 3 and 8, however, have excluded the Chief Executive from the regulatory regime, which has aroused public suspicion of why the head of the SAR Government can be excluded from the Ordinance.

After listening to the debate in these two days, I notice that the majority of colleagues from the pro-establishment camp who have spoken considered this a constitutional issue. Given the transcendent status of the Chief Executive, they therefore suggested to consider from a constitutional perspective. But when

asked what constitutional issue is involved, they failed to provide any clear explanation. As regards the constitutional system, Article 47 of the Basic Law clearly provides that the Chief Executive, on assuming office, shall declare his assets to the Chief Justice of the CFA of the Hong Kong SAR for record. Given that the Chief Executive enjoys superior constitutional status, should he not be exempted from such declaration as well? If the transcendent status of the Chief Executive would enable him to be above the Basic Law and the legal system, then is this the kind of status that Hong Kong residents would expect? I can say for sure that the answer is in the negative.

More importantly, the Chief Executive represents the image of the SAR Government to the public. Regardless of whether people like the Chief Executive or not, he will showcase, on behalf of the entire SAR Government, what is meant by a person of integrity and dedicated to his duties. Therefore, all we need to do is amend sections 3 and 8 of the Ordinance to plug the existing loopholes. Mr James TIEN is right in saying that plugging the loopholes does not mean that the Chief Executive will not breach the law; only that no more loopholes can be found in the system. It is certainly possible that some people may deliberately circumvent the system and keep looking for loopholes, which is not at all surprising to us, but I would consider it a dereliction of duty on our part if we do not plug the loopholes that are known to exist.

The constitutional issue that we mention from time to time is also touched on by former Chief Justice Andrew LI in the Independent Review Committee's report. He said that it was the consideration of this issue that gave birth to the proposed Independent Committee, which consists of three members jointly appointed by the Chief Justice of the CFA and the President of the Legislative Council. This is a perfect illustration of mutual checks and balances and monitoring under the principle of separation of powers in the Basic Law. What is more, Article 47 also clearly states that the Chief Executive should declare his assets to the Chief Justice on assuming office. Given that the Chief Executive is obliged to make declaration, the present proposal merely suggests the establishment of an Independent Committee, to be jointly appointed by the two highest-ranking officials in our institution who are tasked to monitor the Government, to deal with matters relating to the declaration of interests. Plugging the loopholes found in the present system will give the public greater confidence that the Chief Executive will not get around the regulation. This would surely do more good than harm to the SAR Government's overall credibility and governance.

We must understand that by plugging the loopholes through legislative amendments, we mainly aim to protect people's general impression and feeling of the SAR Government. We do not want to turn a blind eye to the loopholes that are known to exist and resort to, say, misconduct in public office or anti-corruption laws having a wider scope for instituting prosecution. This is because when the need to deal with such cases arises, it would mean that someone has already breached the law. The issue under discussion is declaration of interests, and it is all about getting the entire declaration process properly completed. This will only do good to the general image of the SAR Government and the building of people's confidence in the Government (*The buzzer sounded*) ... hope Members will agree with this ...

PRESIDENT (in Cantonese): Mr WU, your speaking time is up.

MR WU CHI-WAI (in Cantonese): ...and support Dr Helena WONG's motion. Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, how righteous this is! The motion proposes to extend the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive and the royalists considered this a constitutional issue. Whom does the Chief Executive report to? Whose consent does he need to obtain? Who is his supervisor? Who is his boss?

Who is his boss, Carrie LAM? Does the Chief Executive have a boss? This so-called "constitutional issue" reminds me of something else. The powerful economy in our neighbourhood is a corrupt and powerful nation. We have never seen in human history any other country with a greater extent and scale of corruption than that of China. Why are we talking about a constitutional issue? Do we have a part to play in amending the Basic Law?

Honestly, I believe the Chief Secretary has mixed feelings over the past 10-odd years. Her former boss, Donald TSANG, will soon appear in court but the formal trial has not commenced yet. Her current boss is despicable, likes to tell lies and lacks credibility; the incident of unauthorized building works has sunk without trace. As regards his acceptance of \$50 million, he keeps repeating the same words over and over, claiming that the incident involves no legal problems, or ethical problems.

As we all know, Hong Kong people are all smart and intelligent. Carrie LAM thought that what she did was righteous and she was persecuted for righteousness' sake. Hence, a seat has been reserved for her in heaven. In that case, heaven will really be packed with people. "689" will certainly go to hell, how will the two be huddled together? She believes in God but he may not believe in God. She thinks that heaven is for her because she considers herself righteous. As he is unrighteous, he definitely cannot go to heaven, and heaven is already packed with people. If everyone thinks that he has a place in heaven, will heaven be overcrowded with people?

I notice that these senior officials are increasingly falling short of our expectation. The core values that we cherished in the past such as the so-called "clean and efficient governance" have completely been destroyed and vanished into thin air. Even Carrie LAM, a capable and well-experienced official who joined the Government as an Administrative Officer, has become bold and shameless. She has started talking nonsense and completely falling short of our expectation.

There is a Chinese saying "the outward appearance reflects the state of the heart". Someone is just getting more and more ugly. I believe that "the outward appearance reflects the state of the heart"; even if you say that I am making a personal attack, I really think that someone is just getting more and more ugly. Why? It is because she cannot stand her authority being challenged. She started to strike back after being berated so frequently. "I am the Chief Secretary, how dare you always berate me?" She has not examined herself honestly and found out the problems. Honestly, some people deliberately make personal attack against her or discredit her. Yet, she should make improvements if there are problems; and if there are no problems, she should take it as a kind of encouragement. It is unnecessary for her to blow up so frequently.

Members, particularly we opposition Members, are certainly duty-bound to impose the highest requirement on the Government. We must oppose everything and oppose for the sake of opposition. It goes without saying that we should do so; otherwise, how can a balance be struck?

To maintain clean and efficient governance, the rule of law and democracy are extremely important. We do not have democracy in Hong Kong. In the past, we relied on judicial independence and a sound legal system to maintain

clean and competent governance, and high salaries were offered to discourage corruption. How much is the monthly salary of the Chief Secretary? Hong Kong is second only to Singapore in being a city with the world's highest paying jobs. Let me tell you, Singapore can really maintain clean and efficient governance. It is most important to have law and democracy, a sound legal system as well as supervision by public opinion and the people. But Hong Kong only has one of the aforesaid and there are loopholes in the law. Are there legal provisions restricting public officials from being involved in the transfer of benefits? Singapore has a "sunshine law", requiring public officials to declare their assets. While public officials in Hong Kong also need to declare their assets, they should also be subject to inspection and people's supervision, and they are doomed if something goes wrong. In the United States, there are also many cases of transfer of benefits and collusion between business and the Government, yet the laws, the democratic system, the Congress as well as the media will impose supervision. Is there similar supervision in Hong Kong?

It has become increasingly evident that laws are formulated for certain people, and so are the measures. In order to set up the Innovation and Technology Bureau, despite our desperate arguments, the authorities still let this "moron" to become the Secretary. He actually said that he was a Legislative Council Member and he often makes mistakes in speaking, how can he promote technological development? Yet, the authorities insisted on appointing him as the Secretary, what can we do then? Since the boss of the Chief Secretary is good at instigating fights, I think this motion debate is a waste of energy.

The Independent Review Committee chaired by the former Chief Justice of the Court of Final Appeal, Andrew LI, put forward some recommendations, but the authorities took no heed of them. The appointment of Andrew LI to lead this committee was just a window-dressing tactic. At the time, the incident concerning Donald TSANG gave rise to public uproar, drawing extensive discussion, and the authorities had to set up a committee to put forward recommendations. After the Independent Review Committee had put forward some recommendations, LEUNG Chun-ying said he would consider them, but he has so far been procrastinating. This provides an opportunity for the pan-democratic Members to propose extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive. Why does the administration still not introduce a bill into the Council? Thus, they become very impatient and work very hard to amend the law. Their efforts will be wasted as this is merely a discussion; political issues are of utmost importance.

I have heard the speeches made by a number of royalists when I was upstairs, and I find their saying that "all are equal before the law" very funny. Why do they make such a remark? Evidently, not everyone is equal before the law; how equal can it be? I would like to raise a question: How come Henry TANG was subject to legal sanctions because of his unauthorized building works, but LEUNG Chun-ying was let off for the same offence? The Chief Secretary still fails to answer this question today. Also, she was the then Secretary for Development, right?

Obviously, the Buildings Department took different actions against different people. I would like to tell the Chief Secretary that it is useless for her to give any reasons or make lengthy explanations because the public would not believe that there is no problem with the Chief Executive. They would not believe that there is no problem for him to receive \$50 million. The public would not believe that. Whatever is said is meaningless. It makes me even more infuriated that the constitutional system is brought up for discussion. Buddy, we have to rely on someone from a corrupt strong nation to tell us whether the Chief Executive is involved in corruption (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr WONG, your speaking time is up.

DR KENNETH CHAN (in Cantonese): President, this debate is truly a waste of time and simply not needed. Why? If Government officials had, as avowed by them upon resumption of office, actively studied the proposals in the report released by former Chief Justice Andrew LI, and extended the application of sections 3 and 8 of the existing Prevention of Bribery Ordinance (Ordinance) to the Chief Executive, the problems would have been resolved. The debate today is basically not needed. What we have to debate on are the disputes related to legislative amendments and the relevant legal problems. At this stage, when the remainder of the term of the current Legislative Council is less than one year, we need to tackle these problems, rather than raising this issue through the debate on a motion without any binding effect, in an attempt to remind the Government and the public that the Chief Executive has failed to accomplish certain tasks.

Today, Chief Secretary Carrie LAM said that a comprehensive study is still required on some legal or constitutional problems. This remark has been made over the years. Specifically, what constitutional or legal problems should be

studied comprehensively and what are the outcomes of such studies? If the Government rashly says that a comprehensive study is required whenever it has queries and does not know how to offer an explanation, it is merely paying lip service. We are completely clueless about what the Government has been doing, and we can by no means believe that the Government is actually making efforts to fulfil the pledges made by LEUNG Chun-ying before his assumption of office, and to implement the recommendations in the report released by the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee) chaired by former Chief Justice Andrew LI that have yet to be implemented since May 2012.

Many Members have made adequate preparations for this debate by looking through the relevant materials, so as to explain to the public how checks and balances can be achieved under the separation of executive, legislative and judicial powers. The measures include establishing a statutory Independent Committee to be appointed by the President of the legislature and the Chief Justice; extending the application of relevant provisions of the Ordinance, so as to subject the Chief Executive to the effective monitoring of the law, and avoid the scenario that other people are subject to this Ordinance except the Chief Executive.

President, in Pacific Place, which is not far from the Legislative Council Complex, an exhibition about the Magna Carta will be opened today. Since the promulgation of the Magna Carta in 1215, it has exactly been 800 years in 2015, exhibitions are being held worldwide, and the exhibition in Hong Kong will last several days. In the feudal era, the emperor represented the empire and his words were laws. The promulgation of the Magna Carta in 1215 aimed to overthrow such wilful and authoritarian rule. Even the emperor, the hereditary ruler, should be subject to the supervision of the general public or the people. That is the origin of the spirit of the rule of law.

Hong Kong is a common law jurisdiction. When we continue to manifest the spirit of common law, we must further remind ourselves that Hong Kong, which has reunited with the Mainland for some 18 years, must not tread on a wrong path. We must not regard the remarks made by leaders as laws, as the constitutional framework or constitutional principle. We must not be frightened off by the remark of XI Jinping that in Hong Kong, separation of powers should be replaced by co-operation of powers. The Government seems to be afraid to

make some simple and expedient technical amendments. Will the remark of XI Jinping become a new constitutional interpretation? Will his remark become the constitutional framework? Will the Chief Secretary please explain later whether the SAR Government regards the remarks made by leaders of the Central Authorities as laws and as the legal problem arising from the constitutional framework referred to by the Government? Will the recent remark that the Chief Executive holds a transcendent status impose a hindrance on the SAR Government, such that no matter how hard it works, the problem concerning the constitutional framework still cannot be resolved?

President, everyone says that Hong Kong upholds the rule of law, but the rule of law cannot be upheld simply through lip service. The report released by the Independent Review Committee led by former Chief Justice Andrew LI is simple and straightforward, enjoys strong social consensus and fully reflects the characteristics of Hong Kong under "one country, two systems", that is, we still cherish the separation of powers, and still uphold and manifest the spirit of checks and balances. Mr Paul TSE was right in saying just now that we must uphold the separation of powers as well as checks and balances, although that might not be appealing to people in power in Beijing. That said, I very much disagree to his saying that Judges of the Supreme People's Court should be invited to Hong Kong for law enforcement. This will, I think, indeed give rise to the constitutional problem of cross-boundary law enforcement, won't it? It is beyond my imagination that officials of the Central People's Government would come over to Hong Kong and join the Independent Committee. For this reason, the Chief Secretary may have to respond later whether Mr Paul TSE, being a lawyer from the legal sector, has misinterpreted certain provisions of the Basic Law by advising officials of the Central Authorities to come to Hong Kong to enforce the Ordinance.

Finally, Dr LAM Tai-fai raised a question this morning about why the Chief Executive has opened a Facebook account for no good reason, and whether this move will enhance the credibility of his governance. Frankly speaking, no matter how he utilizes the social media, the credibility of his governance will not be enhanced in any event. If he is really concerned about the credibility of his governance and a clean society, he had better formulate a timetable and a roadmap for extending the application of sections 3 and 8 of the Ordinance to the Chief Executive. That will surely be good news for Hong Kong, and possibly everyone will click "Like". The Government should actively consider and

proactive respond about the provision of a timetable and a roadmap, and take the initiative to give a reply. I support the original motion, but oppose Mr TAM Yiu-chung's amendment as it is meaningless and devoid of content. As regards other amendments (*The buzzer sounded*) ... I am also supportive. I so submit.

DR KWOK KA-KI (in Cantonese): Recently, the Heritage Foundation of the United States (the Foundation) published the latest Index of Economic Freedom Report, in which Hong Kong luckily secured the first place. However, when the Foundation commented on Hong Kong's position, it highlighted the fact that our score has declined by half a point, which is attributable to, among others, a general concern over an increased level of perceived corruption. Of course, another reason is the implication of Mainland's politics on Hong Kong's financial policies. These are the comments of the Foundation.

Hong Kong has depended heavily on our international status. While we are geographically located at the gateway to China, our politics, rule of law and institutions are completely different from that of the Mainland. And yet, we have failed to properly preserve our advantages. Many people said that today's discussion is a waste of time, and I absolutely agree.

It has been more than three years and five months since the then Chief Executive appointed former Chief Justice Andrew LI to establish the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee) in May 2012. Who would have thought that the comprehensive report submitted by the Independent Review Committee would be left as it is after more than three years? What sadden us most is the remarks just made by Chief Secretary Carrie LAM, who is now present at the meeting. I wonder if her remarks were made from the bottom of her heart or she was trying to use these inhumane remarks to shield the shortcomings of her boss. Having worked as an Administrative Officer for so many years, she should have witnessed the degeneration of Hong Kong, as well its system and moral standard.

Mr Alan LEONG's amendment mentioned the UGL incident, but the Chief Secretary said, in her response, that the incident was irrelevant and the case was not substantiated. Can she ask members of the public if anyone thinks that the Chief Executive should override the law in the UGL incident? Does anyone

think that a Chief Executive who has received tens of millions of dollars can be exempted from the law? Does anyone think that incidents of this kind should be covered up by all means to escape from the least supervision? I most certainly doubt it. How can we remain so indifferent and unresponsive after those startling corrupt cases involving Donald TSANG and former Chief Secretary Rafael HUI, not Mrs Carrie LAM, came to light? Why would the Chief Secretary and the pro-establishment camp continue to defend this corrupt system in this Chamber?

In fact, the report submitted by former Chief Justice Andrew LI in 2012 has already clearly set out five principles, of which the most important is, firstly, leaders should lead by example and the system applicable to him should be at least as stringent as that applicable to those he leads, and secondly, the system must command public confidence. In connection with these two points, may I ask how many Hong Kong people have confidence in the anti-corruption law currently regulating the Chief Executive? Knowing that Chief Executive LEUNG Chun-ying had received tens of millions of dollars, the Chief Secretary still shamelessly lied to this Council, washed her hands off the matter and brazenly argued that the law does not apply to the Chief Executive because of his transcendent status.

Former Chief Justice Andrew LI has stated clearly in the report that when the Prevention of Bribery Ordinance (Ordinance) was amended in 2008, the Chief Secretary and many people had already put forward the abovementioned arguments, including the need to integrate the Chief Executive's unique constitutional status into an appropriate regulatory framework. This is indeed nothing new. Yet, after the amendment in 2008, people found that the problem could not be resolved. In view of the Donald TSANG incident, LEUNG Chun-ying's UGL incident and other possible upcoming cases that have yet to come to light, how could people treat the recommendations in this way if they do care about the institution and future of Hong Kong? The Independent Review Committee appointed by the Government had spent a lot of money, effort and time to compile the report and make recommendations. If I were Andrew LI, I would feel very shameful about the Government, which has indeed gone too far. Did our government officials, political environment and government structure respond to these reasonable recommendations put forward by the former Chief Justice after spending so much time conducting a thorough analysis of our institution?

Former Chief Justice Andrew LI made it very clear that sections 3 and 8 of the Ordinance is a stringent corruption prevention measure and is underpinned by criminal sanctions. This measure is vital for it ensures that the Chief Executive cannot decide on the acceptance of advantages for himself, nor is he free from checks and balances. This also explains why the Chief Executive can get away after receiving tens of millions of dollars. After all, he had informed the Executive Council, and whether we like it or not, he does not think he has breached the law. How can there be such an outrageous person? Although we have no choice in the face of this corrupt system, the elected Chief Executive, disregarding whether he gets 689 votes or any number of votes, should at least subject to legal sanctions and monitoring.

Today, there is a great chance for this motion ... As a matter of fact, this motion should not be proposed by a Member, but by government officials sitting opposite to us, including Rimsky YUEN. He should be the one to propose an amendment to the Chief Executive Election Ordinance to the effect that the Chief Executive is subject to the regulation of sections 3 and 8 of the Ordinance. It is pathetic for Members to voice out the problem, which unfortunately is the case of today. More pathetic still is that many Members from the pro-establishment camp has disregarded Hong Kong's future and again put what should be done on the shelf.

With these remarks, I support the original motion and Mr Alan LEONG's amendment.

MR FREDERICK FUNG (in Cantonese): President, I think nobody in this world would say that it is wrong to prevent corruption. Hong Kong people have become familiar with the importance of corruption prevention, particularly after the establishment of the Independent Commission Against Corruption, and this initiative is pivotal to Hong Kong's clean government. But is there a place on earth that allows its leader to take bribes? If corruption prevention does not apply to our leader, we would be conniving at his wrong-doings and allowing him to take bribes. This has nothing to do with his political status being transcendent or not. If considered from this perspective, it is not a question of law, but of politics.

President, there are actually places which allow their leaders to take bribes. The colonial governors were allowed to take bribes by the United Kingdom. Do Members know that when the governor left the colony to return to the United Kingdom, he could take cargoes of commodities back to the United Kingdom by

ship? When he departed from the colony, he was exempted from checks by the immigration. Likewise, when he returned to the United Kingdom, his personal effects would not be checked by the immigration.

This practice makes me realize that the laws of Hong Kong are mirrored from the laws of the United Kingdom during the colonial era. Except for some textual amendments, they are basically the same, including sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance). Hence the system applicable during the British rule of Hong Kong where the governor was allowed to accept advantages without any regulation had been extended to apply to the SAR Government. We cannot accept this practice both morally and politically because we do not agree that the Chief Executive and the governor have the same status. The governor is a leader designated by a country to rule over a colony, whereas the Hong Kong Chief Executive is elected by the people of Hong Kong — of course, the incumbent Chief Executive is not directly elected — the Chief Executive is elected by all people of Hong Kong and represents Hong Kong people. He also governs Hong Kong on behalf of the Central Government, and he is not a leader of the colony.

President, the conclusion is very simple. Firstly, the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interest (Independent Review Committee), with Andrew LI as the Chairman, was set up by former Chief Executive Donald TSANG. The Independent Review Committee subsequently released its report. As Andrew LI is the former Chief Justice, I believe and agree that his recommendations would be in line with Hong Kong's systems, laws and even constitution. If the recommendations are unconstitutional, there is no reason why he mentioned nothing in the report. There is no reason why he would put forward unconstitutional recommendations or recommend us to adopt some unconstitutional acts. Likewise, he did not tell us that it would be necessary to amend the constitution. I am not a legal professional. But former Chief Justice Andrew LI is a man of high status with exceptional experience and professional knowledge, and I believe in his words. The conclusion is so simple.

The second conclusion is that I believe in the statements made by LEUNG Chun-ying before the election. During his election campaign, he told all people of Hong Kong that he would strictly implement the relevant recommendations as soon as possible. What is meant by "as soon as possible"? A moment ago, the Chief Secretary also used the term "as soon as possible". But it has been three years since then, and I have yet to see any signs that the authorities are starting to or preparing to or will soon implement the recommendations. In my view, the

expression "strictly implement" means he would "strictly implement" the recommendations contained in the former Chief Justice's report. It would be hypocritical rhetoric if the relevant recommendations are not "strictly implemented". In my opinion, the matter is quite simple. Why do the statements made by these two persons having transcending status legally and politically have yet to be implemented, even to this day?

President, if the recommendations cannot be implemented, there are two possible reasons. First, somebody having an even higher status considers that Andrew LI's Independent Review Committee has erred, and erred seriously both politically and legally. Hence the recommendations cannot be implemented. Second, Chief Executive LEUNG Chun-ying may have erred. A number of Honourable colleagues cited the UGL incident in their speeches, but LEUNG Chun-ying may have also erred in other matters. If he amends the legislation, it might have terrible consequences. It is exactly because of Chief Executive LEUNG Chun-ying's involvement in the UGL incident that he should show by his deeds that the report's recommendations would be enshrined and implemented as soon as possible, so as to avoid any association between the incident and corruption prevention. Even if he cannot implement the recommendations today, he must tell us what he is doing now, what he plans to do and what is the timetable. Given the two possibilities of something going wrong, it is hardly surprising that the relevant legislative amendments have yet to be implemented, while the stance has changed from "fast" to "slow" and from "strict" to "loose". I believe the Chief Secretary is also aware that if a person claims to be innocent, it is not enough for him to make such a claim, and he must also convince other people to believe that he is innocent.

President, last but not least, I would like to conclude my speech with the following remarks from the Independent Review Committee, "The IRC fully recognizes the unique constitutional status of the office of the CE. He is the head of the HKSAR and the Government and he is accountable to the Central People's Government and the HKSAR. But the IRC sees no justification for exempting the CE from the statutory regime to which PAOs and civil servants are subject. All public officials are servants of the people. Indeed the CE should be regarded as 'the Chief Servant' of the people. The public expect our public officials, particularly the CE, to observe the highest standards of conduct. Indeed the high constitutional status of the CE makes it all the more important that he sets a good example for all, especially PAOs and the Civil Service which he leads." (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr FUNG, your speaking time is up.

MR FREDERICK FUNG (in Cantonese): President, I so submit.

MR JAMES TO (in Cantonese): President, regarding our present debate on whether the Chief Executive should be subject to the regulation of the Prevention of Bribery Ordinance (Ordinance), particularly section 3, so as to provide that the Chief Executive can only accept advantages with permission from his supervisor, members of the public find it hard to understand why the Government should oppose or resist such a suggestion. Furthermore, they also find it hard to understand why the matter can be stalled for so many years. Of course, this Council has a deeper understanding of the problem. Actually, even to this day, the Government has yet to forward its best and most detailed argument, only ... President, Mr Albert HO remarked that if even public officers are not present in the Chamber, why don't we do a headcount?

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

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

PRESIDENT (in Cantonese): Mr James TO, please continue.

MR JAMES TO (in Cantonese): President, apart from reasons such as constitutional issues or Hong Kong's unique constitutional status, the Government has never provided any detailed explanation as to why the Chief Executive cannot be subject to the regulation of section 3 of the Ordinance. In the present debate, Mr TAM Yiu-chung gave us a relatively detailed explanation of his theory. Of course, I am not saying that what he is an official representative. In gist, his theory is quite simple. As the SAR is a special administrative region, and the Chief Executive is the head of the SAR, he does not have a direct supervisor in Hong Kong. His direct supervisor should be the Central Government or the Premier of the State Council; if the Chief Executive is put under the scope of

section 3, it would create a constitutional issue. He queried whether the Independent Committee appointed by the Chief Justice of the Court of Final Appeal (Chief Justice) can take the place of the Central Government as the principal of the Chief Executive.

President, I think the question should be considered from several levels. First, if the Independent Committee can grant permission or otherwise to the Chief Executive concerning the acceptance of advantages or decide what advantages might be accepted by the Chief Executive, does it make the Independent Committee the principal of the Chief Executive?

To begin with, the scope of his argument is too narrow. Actually, the acceptance of advantages should be an exception, rather than the norm. In other words, the Chief Executive should not accept advantages as a general rule. Let us consider the following case. If the Chief Justice acts prudently and refuses to give permission to the Chief Executive to accept advantages, what impact will this have on the governance? Will there be any impact on the country's defence and foreign affairs? Or is it the country's view that the Chief Executive should be allowed to accept advantages as compensation for his low salary? I do not understand why the establishment of an Independent Committee to take the Central Government's place in making decisions concerning the acceptance of advantages by the Chief Executive or otherwise would impact on the Central Government's administration on Hong Kong.

Of course, as a legal professional, I would consider the matter more thoroughly and ponder on the technical issues that might arise. What if the Central Government asks the Chief Executive to accept advantages on its behalf, that is, the Chief Executive is actually an agent to facilitate the acceptance of advantages? Yet the Chief Justice refuses to give him permission to accept the advantages. The Chief Executive can only keep his suffering to himself because the Central Government asked him to accept the advantages and then transmit the funds to the Mainland. Of course, you may say that this example is too far-fetched. But is there such a possibility? What if unfortunately, the Central Authorities should need assistance in future due to the poor economy, and it would not be proper to ask Hong Kong people to assist the Mainland directly? In this way, the Mainland people can receive a huge sum of financial assistance amounting to tens or hundreds of billion dollars through Hong Kong. It is actually done for the people. I can hardly believe that this scenario would happen. Of course, if such a scenario really happens, how should it be handled?

Then there is another possibility. Notwithstanding the establishment of an Independent Committee to be appointed by the Chief Justice in Hong Kong, the Chief Executive must be accountable to his boss (that is, the Premier of the State Council or the Director of the Hong Kong and Macao Affairs Office of the State Council (HKMAO)) from the administrative point of view. Hence, regarding the question of whether he can accept certain advantages or not, he would have to consult the Director of the HKMAO or the Premier of the State Council before approaching the Chief Justice. What if the Premier says, "That is acceptable, it is not a problem, and he is still regarded as clean", but the Chief Justice refuses to grant permission? Will it undermine the power and authority of the Premier and the Director of the HKMAO as the supervisor of the Chief Executive? I do not think so. Why?

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

We cannot assume that the Central Government is so lenient to Hong Kong that the SAR would be given a free hand in everything, and the Chief Justice be allowed to decide whether the Chief Executive should or should not accept certain advantages. Of course, I can also assume otherwise, that is, the Chief Justice makes a mistake by permitting the Chief Executive to accept certain advantages, while the Central Government, thinking that it should be cleaner than Hong Kong, refuses to let the Chief Executive accept the advantages. In that case, the matter can be resolved easily. Why? Because if the Central Government really gives out this message, the Chief Executive dares not accept the advantages, even with the Chief Justice's permission. As a subordinate, the Chief Executive will not argue with the Central Authorities.

Hence we can hardly understand why we need to debate on this matter in the Council, and we have no idea whether the Government is forced to suffer in silence because it has all along failed to give us any plausible reasons as to why the Chief Executive cannot be put under the regulation of sections 3 and 8 of the Ordinance.

If the Government has any grounds, say, if the Government says, "Our initial view is that direct approval should be given by the Premier of the State Council, rather than by the Chief Justice", if that is the Government's theory, personally, I would say it is worth pursuing. But the Government must take it

forward with the people. Why? Honestly, it is beyond our imagination that the Premier of the State Council would collude with the Chief Executive and allow him to accept advantages incessantly, or he wants Hong Kong to be more corrupt or more decadent. It is something beyond my imagination. I find it even harder to imagine the situation where the Premier of the State Council would collude with the Chief Executive and take a share in the accepted advantages.

If the Government has any proposal in mind, I hope it can consult the public as soon as possible in order to forge a consensus. If its proposal is sensible, it should have the public's support.

MR ALBERT CHAN (in Cantonese): Deputy President, regarding the issue about extending the scope of the Prevention of Bribery Ordinance (Ordinance) to cover the Chief Executive, the question that Members should really ask is: How come a piece of legislation aimed at preventing corruption is not applicable to the Chief Executive? In other words, the Chief Executive has a licence to engage in bribery and graft. The 7 million people in Hong Kong are prohibited from taking bribes, yet the person occupying the highest position and holding great powers can do so. One cannot help but ask whether such an exemption is reasonable or not.

The question that Members should really ask is: Why do we condone the corruption of the Chief Executive? It is because of such condoning attitude that Donald TSANG had willfully engaged in "sea-land-air corrupt practices", while "689" could enter into an agreement before taking office to receive a payment of £4 million (or HK\$50 million) and to pocket the money brazenly after taking office. Is this a normal phenomenon?

Would the 170 000 civil servants in Hong Kong find this acceptable? I have cited an example a number of times in this Council about a civil servant working in the Leisure and Cultural Services Department who was investigated by the Independent Commission Against Corruption for borrowing \$500 from a tennis coach. Eventually he had to resign. This civil servant merely borrowed \$500, while the Chief Executive had pocketed \$50 million. Considering this case, the 170 000 civil servants would definitely feel aggrieved. How come the Chief Executive can take bribes blatantly and go unpunished, while civil servants would be severely penalized and bullied, or must even resign or face dismissal when they have some minor wrong-doings?

Deputy President, since "689" received the sum of \$50 million, Hong Kong has suffered from a series of catastrophes over the past three years or so. Perhaps it is a sign that Hong Kong is being punished, and that the Government is being punished for allowing such a corrupt person to remain in office.

Deputy President, the disasters that struck Hong Kong have never stopped over the past three years or so. Since the Chief Executive assumed office, there are incidents concerning the opposition against national education, the Lamma Island ferry tragedy on 1 October resulting in heavy casualties, the incessant scandals surrounding the accountability team, with the Chief Executive himself topping the list, the refusal of granting a licence to Hong Kong Television Network Limited, as well as the 7-meter drift of the Hong Kong Boundary Crossing Facilities artificial island of Hong Kong-Zhuhai-Macao Bridge. Hong Kong has been undertaking reclamation projects for decades, and no such drifting has ever happened. After LEUNG Chun-ying's assumption of office, even an artificial island built on reclaimed land had shifted, which is really ridiculous. Moreover, there are serious cost overruns of various infrastructure projects, the firing of 87 tear gas canisters by the authorities and the 79-day Occupy Central movement. Deputy President, I must clarify that the movement is about Occupying Admiralty and not Central because I always stress that Occupy Central had never happened. The occupation took place in Admiralty, not Central. The next few items on the list are the lead-in-water incident, the Kap Shui Mun Bridge collision incident, and so on. Since the election of LEUNG Chun-ying, Hong Kong has been hit by a series of incidents, including at least 10 governance catastrophes. These are indeed punishment on the Government. Certainly, it is extremely saddening and regrettable that many people have suffered as a result.

Some people said that there are no laws in Hong Kong to regulate and punish the acts of corruption concerning the Chief Executive. But the saddest thing is that in the "one country" under "one country, two systems", and under the rule of the Communist Party, any official guilty of corruption would be subject to the Party's disciplinary actions. But LEUNG Chun-ying is not a formal party member. Notwithstanding the allegation that he is an underground party member, he would not be subject to "investigations at the prescribed time and place", but perhaps he would be subject to covert investigation. Nevertheless, Chief Executive LEUNG Chun-ying would not be subject to "investigations at the prescribed time and place" openly because he is not a formal party member.

Deputy President, since XI Jinping came to power about two years ago, a number of officials had been subject to "investigations at the prescribed time and place" in the Mainland, with the amount of bribes involved in each case being less than the \$50 million received by "689". In 2012, DONG Yongan, an official in Henan province was sentenced to life imprisonment for accepting bribes totalling RMB 26 million yuan. In July 2013, LUO Yinguo, an official in Maoming city of Guangdong province received a death sentence with reprieve for accepting bribes totalling RMB 70-odd million yuan (which is slightly more than \$50 million). If considered on the basis of these two cases, "689" should receive a punishment between life sentence and death sentence with reprieve because the sanction for accepting RMB 26 million yuan is life sentence, and RMB 70-odd million yuan is death sentence with reprieve, isn't that right?

In another case, LIU Huimin, an official in Quyang county, Baoding City of Hebei province was sentenced to death for accepting bribes totalling RMB 60 million yuan. In July 2014, WANG Suyi, an official in Inner Mongolia was sentenced to life imprisonment for accepting bribes totalling RMB 10 million yuan. In some cases, it could incur a death sentence even if the amount of bribes taken is only RMB 20 million yuan. In August 2014, the former head of the Kunming Bureau of Railways received a death sentence with reprieve for accepting bribes totalling RMB 20 million yuan. It turned out that taking a bribe of \$50 million is a very serious crime, and the offender could receive a death sentence. No wonder the Chief Executive must keep on denying any wrong-doing. Perhaps he should congratulate himself for not formally becoming a member of the Communist Party back then; otherwise, he may really have to face a death sentence for corruption. As a matter of fact, there is no end to the graft cases in the Mainland, with the scale of graft ever increasing. In some cases, over RMB 100 million yuan of bribes is involved.

Actually, certain acts of the Chief Executive have also violated the policies of the Central Authorities, such as the problem of "naked official" which XI Jinping has vowed to crack down on. LEUNG Chun-ying is not only corrupt, but he is also a "naked official" as his family members hold foreign passports and have the right of abode in overseas countries. Under the current leadership of the Central Authorities, there are policies forbidding spouses and/or children of senior officials at the ministerial or provincial level, especially provincial party secretaries and deputy provincial governors, to have the right of abode in overseas countries. Under the rule of the Central Authorities, offenders found

guilty of graft or corruption could be sentenced to life imprisonment or capital punishment. Considering the rank of his post, LEUNG Chun-ying should be dismissed if his family members have the right of abode in overseas countries.

Deputy President, it is ridiculous that the laws of Hong Kong should grant such an exemption to the Chief Executive. I think 99.9% of the people in Hong Kong would agree that the Chief Executive should come under the regulation of the Ordinance because such an exemption will only result in further corruption in the entire Government, bringing more suffering to the people and causing greater grievances to the 170 000 civil servants.

MR CHAN CHI-CHUEN (in Cantonese): Deputy President, the Basic Law is often mentioned in motion debates of the Legislative Council. Regarding Hong Kong's development in recent years, in particular, the problems of young people, some pro-Beijing people or even royalist Members have put the blame on young people's lack of understanding of the Basic Law. Hence, they often request the Government to step up its publicity and resource allocation for the promotion of the Basic Law.

I have a question for people present in the Chamber. Of the 160 provisions of the Basic Law, which one is the shortest? The answer is Article 25 which provides that, "All Hong Kong residents shall be equal before the law." The provision looks quite simple, with only 10 words altogether. Yet it is clear from the debate just now that Chief Secretary Carrie LAM's understanding and perception of Article 25 of the Basic Law is poles apart from that of Legislative Council Members as well as the general public. At the outset of her speech when she refuted Ms Cyd HO's argument, the Chief Secretary said, "All people are equal before the law' does not mean that all laws must apply to and regulate each and every person categorically." She even cited the example that section 3 of the Prevention of Bribery Ordinance (Ordinance) likewise does not apply to Members of the Legislative Council.

In my opinion, it is nothing more than sophistry from the Chief Secretary to confuse right and wrong. "All are equal before the law" is concerned about the legal system and the laws of Hong Kong as a whole. If two persons with similar circumstances commit the same crime, it would be unfair if there are provisions in the existing laws to punish one person or one type of person who committed

the crime, but no provision to punish another person. It means the laws as a whole are flawed, and a review is needed to plug the loopholes.

I am referring to section 3 of the Ordinance. How come there are provisions regulating the offences committed by Directors of Bureaux and Secretaries of Departments, but when the Chief Executive commits the same offence, he is exempted from regulation? This is where unfairness lies, and such unfairness cannot be denied by the Chief Secretary.

Hence I hope the Chief Secretary can explain to the public her understanding of Article 25 of the Basic Law which provides that, "All Hong Kong residents shall be equal before the law." She can do so either in her concluding speech later, or she can write a long article about it. A moment ago when I surfed the Internet, I noted that many members of the public have left messages, stating that they were confused after hearing the Chief Secretary's remarks as they did not know how to interpret the said provision. If the public are uncertain about the interpretation of the provisions in the Basic Law, how can the Government promote the Basic Law? It turned out that the Chief Secretary's understanding of the shortest provision of the Basic Law would be poles apart from that of the public.

Even if we do not subscribe to the saying that "A sovereign who breaks the law shall be held liable like his subjects" whole-heartedly, we dare not say anything to the contrary. But what the people are really thinking now is that, "One man may steal a horse while another may not look over a hedge", that is, only the Chief Executive is allowed to receive payments from others, while Director of Bureaux, Secretaries of Departments and civil servants are prohibited from accepting similar advantages.

Deputy President, my speech will focus on Mr TAM Yiu-chung's amendment and to a lesser extent, the Chief Secretary's speech a moment ago.

Mr TAM Yiu-chung started off by citing Article 47 of the Basic Law which provides that, "The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties." It is true that such a provision has been written into Hong Kong's mini constitution. That is why we are now discussing whether this provision can be enshrined in the laws of Hong Kong, that is, in the Ordinance in a fair and equitable manner.

Mr TAM then built up his argument by saying that we should not only focus on sections 3 and 8 of the Ordinance, as if the Chief Executive will be subject to no control if he is guilty of corruption because sections 4, 5 and 10 still apply. Of course, everybody knows that those provisions have been stipulated in the Ordinance, and the Chief Secretary even concurred with Mr TAM Yiu-chung's analysis. Then let us consider what matters are regulated by those provisions. The heading of section 4 is "Bribery", section 5 "Bribery for giving assistance, etc. in regard to contracts", and section 10 "Possession of unexplained property", while the headings of sections 3 and 8 of the Ordinance, that is, the subject of this motion, are respectively "Soliciting or accepting an advantage" and "Bribery of public servants by persons having dealings with public bodies". The difference is blatantly clear.

Why do I say that the Chief Secretary's logic is confusing? I invite the Chief Secretary to be honest before answering this question: Does she take the view that everything is under control now, and hence there is no need for amendments? Because she mentioned that under the Ordinance, there were other ... that the same offence of the Chief Executive can be caught by other legislation, and there is no need for amendments. If there is indeed no need for amendments, there is no need for her to support Mr TAM Yiu-chung's amendment because everything is under control and the existing laws are comprehensive enough. It is just a case of not all provisions being applicable to the Chief Executive. Or does she take the view that there are indeed problems, loopholes and shortcomings which must be plugged? It is just that she knew it would be a daunting task, with the so-called constitutional issues; or that she did not know how to differentiate the problems, so she just kept procrastinating and pretending to be working on it, while nothing would be done eventually? She must think twice before answering this question.

After listening to Mr TAM Yiu-chung's speech earlier on, I would say that his arguments are in line with the latter theory because he intentionally deletes the reference to the Ordinance and inserts the wording "and to handle the aforesaid issue in compliance with the constitutional requirements under the Basic Law" in his proposed amendment. In other words, he also agrees that there are problems, but strangely he also deletes the wording "to plug the loopholes in the law, so that the Chief Executive will not be above the law which applies to politically appointed officials and civil servants" in the original motion.

In the final analysis, what is their logic? Do they hold that there are problems and loopholes to be addressed with specific measures, or do they hold that there are only minor issues or even no issue at all because the matter can be dealt with by other legislation and hence, there is no need for amendments? If other royalist Members will speak later, please give an account to the public or the reporters outside.

According to opinion surveys conducted earlier by both the Liberal Party and the Democratic Party, most people support this motion today and request the Government to extend the scope of the Ordinance to regulate the Chief Executive. As representatives of public opinion, should Members returned through direct elections vote against this motion today, they must explain themselves to the public as well as their voters clearly in this Council. Otherwise, they would be shielding a fault.

There is a saying about putting one's neck in the noose. LEUNG Chun-ying certainly has no wish for any change in law. As far as the Chief Secretary is concerned, she once described herself as a government official with no expectation, that is, she has no wish to be the next Chief Executive. Then she should have no fear about her interests being prejudiced by the amended legislation. Regarding the stance of the Democratic Alliance for the Betterment and Progress of Hong Kong, I am not so sure because its party members could become the Chief Executive someday. In that case, they should speak for themselves and give the public a full explanation.

MR IP KWOK-HIM (in Cantonese): Deputy President, when the debate started, Mr TAM Yiu-chung had already clearly stated the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on this motion. Just now I heard Mr CHAN Chi-chuen ... Perhaps he has missed the point, thus making some nonsense remarks.

The main point of the discussion on this motion today is to extend the application of sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) to the Chief Executive. In fact, the DAB had already stated clearly our stance on the issue when the authorities introduced the Amendment Bill to this Council in 2008. We have not changed our stance since then.

Just now Mr CHAN Chi-chuen mentioned section 3 of the Ordinance. The content of section 3 is very clear. Let me reiterate, "Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence." This is a provision related to the Chief Executive because he is currently the highest person-in-charge of Hong Kong. Actually, during the process of the debate, a question has arisen, and that is: Are all people equal before the law in Hong Kong? I trust we can see that it is precisely realized in the current legislation and legal system of Hong Kong. If the Chief Executive breaches any law, he will be subject to legal sanction, be it a traffic offence or a corruption offence.

Currently, sections 4, 5 and 10 of the Ordinance are all applicable to the Chief Executive, subjecting him to regulation. The content of section 4 is related to bribery; section 5 is about "bribery for giving assistance, etc. in regard to contracts"; while section 10 targets on the possession of unexplained property. The Chief Executive is currently under regulation. It is clearly stipulated in the relevant legislation enacted in 2008.

I have been listening to the speeches of many Members in this Chamber, among them, Ms Cyd HO was so ignorant as to say that the DAB proposed to request the Central Government for authorization to establish an Independent Committee and apply sections 3 and 8 of the Ordinance to the Chief Executive, such that the Chief Executive will not be regulated by the laws of Hong Kong. I have just read out the provisions and as we all know, with the exception of sections 3 and 8, the Chief Executive is already subject to the Ordinance. Therefore, when many Members spoke, they just ignored the truth, taking wrong as right and talking black into white. They were just talking nonsense. I trust Members can tell whether Ms Cyd HO or the pan-democratic Members are actually ignorant or they deliberately intend to mislead the public.

Moreover, we may take a look at section 3 of the Ordinance, which ...

(Ms Cyd HO stood up)

MS CYD HO (in Cantonese): I request Mr IP Kwok-him to clarify which part of my speech was related to the point just mentioned by him.

DEPUTY PRESIDENT (in Cantonese): Ms Cyd HO, please sit down. You can only ask Mr IP Kwok-him for a clarification after his has finished speaking.

Mr IP Kwok-him, please continue with your speech.

MR IP KWOK-HIM (in Cantonese): The legislative intent and main focus of section 3 of the Ordinance rest on whether the principal permits the acceptance of advantages by the prescribed officers, that is, whether the supervisor permits his subordinates to accept advantages. Therefore the crux of the question lies with the supervising or subordinating relationship.

Article 43 of the Basic Law provides that the Chief Executive shall be the head of the Hong Kong Special Administrative Region (HKSAR) and shall represent the HKSAR. The Chief Executive shall be accountable to the Central People's Government and the HKSAR in accordance with the provisions of the Basic Law. In other words, the Chief Executive, as a subordinate, should be accountable to the Central Government, and as a superior, he should be accountable to the HKSAR and people of Hong Kong. From the constitutional perspective, the Premier of the State Council of the Central People's Government is thus the direct supervisor of the Chief Executive, which is rather obvious.

If the issue of who is the principal of the Chief Executive is not clearly defined, it is not feasible to hastily apply sections 3 and 8 of the Ordinance to the Chief Executive, because that is a crucial issue that must be resolved. Certainly, as Ms HO is not a legal professional, we cannot blame her for being not conversant with the law; yet there are many legal professionals such as senior counsels and solicitors in the pan-democratic camp — Mr James TO has spoken just now — there is no reason why they do not understand the rationale therein. There is only one reason why the pan-democratic Members deliberately ignore the issue and forcibly request to apply sections 3 and 8 of the Ordinance to the Chief Executive, and that is: the pan-democratic camp is not really concerned about the issue, they just want to exploit the issue to attack the SAR Government.

Members from the pan-democratic camp pointed out that there were many similar cases in overseas countries. However, we have to understand that Hong Kong is different from overseas places in the sense that Hong Kong is not a place with independent sovereignty. Hong Kong is a place that enjoys high autonomy under "one system" of the "one country, two systems". We do not have the right

to formulate laws and regulations on our own to regulate the scope of authority of the supervisor of the Chief Executive. Therefore, seeking authorization from the Central Government is the only way out.

Just now, Ms Emily LAU said that she would distribute leaflets tomorrow if the DAB opposes Dr Helena WONG's motion. Such a remark precisely reflects that Ms Emily LAU is deliberately smearing the DAB with evil intentions (*The buzzer sounded*) ...

DEPUTY PRESIDENT (in Cantonese): Mr IP Kwok-him, Ms Cyd HO asks you to clarify the speech you made just now. Do you wish to clarify?

MR IP KWOK-HIM (in Cantonese): I do not have anything to clarify because it has all been recorded in the minutes of proceedings of the meeting.

(Ms Cyd HO stood up)

DEPUTY PRESIDENT (in Cantonese): Ms Cyd HO, what is your point?

MS CYD HO (in Cantonese): Deputy President, if Mr IP Kwok-him does not make a clarification, I shall make mine. This is permitted by the Rules of Procedure.

When I spoke last week, I just quoted the speech made by Mr TAM Yiu-chung on the amendment of the Prevention of Bribery Ordinance in 2008. This is what he said at that time: The DAB supports amending sections 3 and 8 of the Ordinance; however, at that time, they considered that there were certain constitutional issues which could not be resolved, and they would give their support if such issues could be resolved.

Therefore, I reminded Members of the DAB in my speech last week that former Chief Justice Andrew LI had provided clear answers in his report to resolve these constitutional doubts. However, the DAB has never published any report to debate with the former Chief Justice Andrew LI on these issues. My speech last week was definitely not what Mr IP Kwok-him has just depicted. It seems that he was not listening attentively last week.

DEPUTY PRESIDENT (in Cantonese): You have made your clarification. Mr MA Fung-kwok, please speak.

MR MA FUNG-KWOK (in Cantonese): Deputy President, the involvement of a number of senior government officials in the last-term Government in corruption cases had sparked public concern for the inadequacy of the current regime in regulating the conduct of the Chief Executive. Today, Dr Helena WONG moves a motion debate on a recommendation to extend the application of sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) to the Chief Executive, thereby subjecting the Chief Executive to the same regulations as politically appointed officials and civil servants in accepting gifts and advantages. In fact, this is not a new requirement. However, the focus of my speech today is how to actually implement the requirement while complying with the constitution.

Since the reunification, the regulation over the Chief Executive's conduct has been unsatisfactory, and the anti-corruption regime applicable to the Chief Executive must be enhanced to keep up with the times and adapt to modern changes, so as to meet public expectations. According to the Basic Law, the Chief Executive is monitored and regulated by our constitution. Article 47 of the Basic Law states that "the Chief Executive ... must be a person of integrity"; whereas the second paragraph of Article 47 stipulates that "the Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal ..." and the Legislative Council may pass a motion for investigation and a motion of impeachment according to Article 73(9) to monitor the Chief Executive if there is serious breach of law or dereliction of duty on his or her part. After the handover, the Register of Gifts Presented to the Chief Executive has been open for public inspection and it has even been available for online inspection since 2007.

However, the Ordinance has only been slightly revised during the past 18 years since the unification. The fact that sections 3 and 8 are still not applicable to the Chief Executive can be traced back to the bad practice in the colonial era. The SAR has all along retained the supreme power held by the Hong Kong Governor in the colonial era, hence the acceptance of entertainment, gifts and personal advantages on the part of the Chief Executive is not subject to any statutory control and regulation. The two previous Chief Executives failed to uproot this unreasonable system during their tenure. According to Article 25 of the Basic Law, "All Hong Kong residents shall be equal before the law". Today,

it is high time to right the wrongs passed down from the colonial era by removing the privileges and subjecting the Chief Executive to the same punishment as the general public in case he commits an offence. With regard to the Ordinance, as the provisions thereof are meritorious, they should be safeguarded and retained. As such, the recent request in society for "decolonization" is actually an appeal to "get rid the weed and keep the flower of the leek", which is a practical measure and not a denial of everything across the board.

Deputy President, some Members intend to request the Chief Executive to make good on his promise, they criticize the Administration for making empty promises and berate it for deliberate stalling. I can hardly agree with such views. When LEUNG Chun-ying ran for office of the Chief Executive in 2012, he promised to amend the Ordinance. He made the same undertaking again when he was the Chief Executive-elect. However, no bill has ever been introduced into the Legislative Council so far. The Administration Wing explained that the delay was due to the constitutional issue involved. When the Legislative Council discussed in 2008 the Prevention of Bribery (Amendment) Bill 2007, some Members proposed to apply section 3 of the Ordinance to the Chief Executive, however, the proposal was voted down due to the same unresolved constitutional issue. Mr TAM Yiu-chung's amendment today serves as a similar reminder. When we amend the Ordinance, the constitutional requirements set forth in the Basic Law must be observed.

The inclusion of the Chief Executive in the ambit of the Ordinance is an important, complicated and serious matter which also involves a constitutional issue as set forth in the Basic Law. As such, the constitutional relation between the Central Government and the SAR must first be sorted out and reflected clearly to ensure that the constitutional procedures are complied with, and the differences in political regimes and legal systems in the two places also have to be taken into consideration. In addition, it is also necessary to resolve the problem concerning the source of authority in regulating the bribery acts of the Chief Executive. If the personal conduct of the Chief Executive is to be monitored and regulated, it is essential to first define "who is the direct supervisor of the Chief Executive?". The subordinating or supervising relationship between the Chief Executive and the Central Government must first be clarified before we can further explore how to enforce the requirement of obtaining the direct supervisor's permission for acceptance of advantages as stipulated under sections 3 and 8 of the Ordinance. According to Article 43 of the Basic Law, the Chief Executive shall be accountable to the Central People's Government.

The Chief Executive shall be the head of the SAR and he shall be the highest-ranking official who is accountable to the Central Government concerning matters in Hong Kong. The Chief Executive holds a unique status, as evident from the fact that the order of the State Council for the appointment of each Chief Executive is signed by the Premier of the State Council personally. In addition, the Premier is responsible for supervising the Chief Executive's performance. Accordingly, the Chief Executive must report to the Premier on a yearly basis, which accurately reflects the subordinating position of Chief Executive to the Premier.

Nevertheless, under "one country, two systems", is the Premier of the State Council supervising directly the Chief Executive's acceptance of advantages? Or is the supervision conducted by some other people through delegation of power? The Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests (Independent Review Committee) headed by former Chief Justice Andrew LI proposed to set up an Independent Committee to assume the role of agent for the supervising authority. For acceptance of an advantage, the Chief Executive must be granted general or special permission or he shall be guilty of a criminal offence. This recommendation carries a positive implication but it fails to solve a problem, that is, the source of the authority of the Independent Committee and whom should the Independent Committee be accountable to. If power is delegated to the Independent Committee by the State Council through an administrative order, the problem of source of authority may be resolved, however, how should we determine whom the Independent Committee should be accountable to?

The SAR Government should start discussing with the Central Government as soon as possible on how to ensure the integrity of the Chief Executive and implement relevant policies. The SAR Government should conduct thorough and in-depth consideration in a holistic manner and report the work progress to the Legislative Council and the public on a regular basis, so as to enhance transparency as appropriate, and eliminate unnecessary concerns by allowing the public to know when a consensus can be forged.

Deputy President, the Central Government is vigorously promoting anti-corruption, cracking down on tigers and flies alike to build up a society of probity. How can Hong Kong stay aloof and stand in a standstill? We have to remove the privileges passed from the colonial era and safeguard our clean and efficient administration which we take pride in, so as to devise a sound regime for

regulating the Chief Executive and laying the cornerstone for long-term peace and stability, on the premise that any regime must be in compliance with the constitutional requirements set out in the Basic Law. As such, I support Mr TAM Yiu-chung's amendment but have reservations about the other two amendments as I do not agree on adopting all recommendations put forward by the Independent Review Committee.

I so submit.

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

MR LEUNG KWOK-HUNG (in Cantonese): Deputy President, honestly, I have no idea what the royalists Members are protecting. On that day, LEUNG Chun-ying said that he would strictly implement the relevant recommendations as soon as possible. Did he utter those words while being held at gun point by LEUNG Kwok-hung? No, the Chief Executive had, after careful consideration, said that he would strictly implement the relevant recommendations as soon as possible.

Let us give a hypothetical example. One day, the Chief Secretary told her secretary in the office, "I want you to strictly work on arranging a meeting between me and the Honourable 'Long Hair' as soon as possible. I want to lobby his support for the Chief Executive." After three years, the Chief Secretary asked her secretary, "Why haven't I received any call from the Honourable 'Long Hair', saying that I had contacted him previously?" Under the circumstances, would the Chief Secretary dismiss that staff? Could the staff put up a defence that he did not contact Honourable LEUNG Kwok-hung because he was not sure whether he could eventually find him? My fellow Members, even if you want to defend LEUNG Chun-ying, you should not kick his ass. He uttered those words of his own accord. On that day, he was informed by a lawyer, or a barrister working in the Government, that is, the Secretary for Justice. If he did not follow up, he had neglected his duties; if he did follow up, what was the answer? It is LEUNG Chun-ying's debt, and nobody could repay the debt for him.

If constitutional issues are involved, can the Chief Secretary tell this Council when LEUNG Chun-ying had asked Rimsky YUEN or the previous Secretary for Justice by the surname of WONG — I have already forgotten his name — about it? At that time, LEUNG Chun-ying was the Chief

Executive-elect, and he had yet to assume office. Did he ever ask the relevant persons? Afterwards, did he seek the Central Authorities' advice again? What did the Central Authorities tell him? It is typically a case that the emperor is not worried but his eunuchs are worried to death. Is it really necessary? Is it really necessary for the eunuch, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), to come forward with the theory of constitutional issues? Regarding the so-called constitutional issues claimed by the DAB, had any follow-up actions been taken since the theory was first mentioned in 2008? Even if constitutional issues are really involved, does it mean that nothing can be changed?

The Communist Party is talking, so I will also respond with the words of the Communist Party. I would like to cite the following passages from the *Quotations from Chairman Mao Zedong*. "Our point of departure is to serve the people whole-heartedly and never for a moment divorce ourselves from the masses, to proceed in all cases from the interests of the people and not from one's self-interest or from the interests of a small group, and to identify our responsibility to the people with our responsibility to the leading organs of the Party." The focus of this passage is the people. Under the same section with the heading of "Serving the People", there is another passage as follows — incidentally I think Mr MA Fung-kwok has also read about it when he was young — "All our cadres, whatever their rank, are servants of the people, and whatever we do is to serve the people. How then can we be reluctant to discard any of our bad traits?" And then, "Our duty is to hold ourselves responsible to the people. Every word, every act and every policy must conform to the people's interests, and if mistakes occur, they must be corrected — that is what being responsible to the people means."

Buddy, there is one person who wants to make you being responsible to the people. His name is Andrew LI. Back then, he was appointed by Donald TSANG as the Chairman of the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests. Certainly when it comes to legal expertise, he is definitely way better than all of us in this Chamber would. Yet some people dare say that their legal knowledge is better than Andrew LI's. What are they talking about?

Of course, the pro-establishment camp is free to refute the recommendations made by others. But do they have the guts to refute? Is the Independent Committee recommended by Andrew LI really not feasible? I

implore all Members to listen up. What if the recommendation concerning the Independent Committee is found to be feasible in future? Would they jump to the sea? Mr IP Kwok-him, your words would be put down in black and white, so do not make comments casually. If the Central Authorities suddenly say that Andrew LI's recommendation is sound, would Members of the DAB jump to the sea *en masse*? Shall I book some vessels in order to pick them up from the sea? Because they are now strongly criticizing Andrew LI for not understanding the relevant constitutional issues. Chief Secretary, is it alright to call a vessel and pick up the Members from the sea? Buddy, do you want to jump to the sea? Serve you right for speaking so loud! Clearly, it is all nonsense from the DAB.

Of course, the problem with section 3 of the Prevention of Bribery Ordinance is clear for all to see, isn't that right? The problem is that there is nobody to regulate LEUNG Chun-ying. But as already pointed out, the matter must be resolved through a balanced approach, so long as no objection is voiced by the Central Authorities. How do they know if Andrew LI has ever raised this recommendation with the Central Authorities? What were they talking about?

I am talking about accountability. I want the Chief Secretary to be accountable to this Council. Can she tell us clearly whether LEUNG Chun-ying has sought the Central Authorities' views on the constitutional issues, either in the name of the Chief Executive or the SAR Government? If he has indeed made such an enquiry and the recommendation was rejected, please say it openly, or else some people may have to jump to the sea someday. But the truth is that no such enquiry has been made, isn't that right?

I am not asking the Central Government to be accountable. I am asking LEUNG Chun-ying to be accountable. Buddy, he himself told us that he would strictly implement the recommendations as soon as possible. But he failed to keep his words. I have no idea what the royalists Members are protecting. He spoke those words himself. I did not say, "LEUNG Chun-ying must strictly implement the recommendations as soon as possible". What are they saying? LEUNG Chun-ying uttered those words himself. It is a consequence he brought on himself, isn't that right? Buddy, as Members of the pro-establishment camp are close friends of the Chief Executive, they should have asked him about it when they met him. I do not get the chance to see him. If they had told me about his answer, I would not scold him today. The Chief Secretary is even closer to LEUNG Chun-ying. When she speaks in reply later, can she respond

to the question whether the so-called constitutional issues only exist in Neverland or Everland, as once wrongly put by Mr Christopher CHUNG?

The entire question is really so simple, that is, can the Chief Executive serve the people in a way as described in the passages I just read out? Has he ever asked the Central Authorities (*The buzzer sounded*) ... to resolve the question for us in accordance with this principle? If he has not done so, just shut up!

DEPUTY PRESIDENT (in Cantonese): Mr LEUNG, speaking time is up. Please sit down.

MR LEUNG KWOK-HUNG (in Cantonese): You need not be polite. I will sit down myself. Thank you.

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

(No Member indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Dr Helena WONG, you may now speak on the amendments. The speaking time limit is five minutes.

DR HELENA WONG (in Cantonese): Deputy President, when Chief Secretary Carrie LAM spoke today, she did not deny that LEUNG Chun-ying made a promise when he was the Chief Executive-elect in 2012. He promised to consider the recommendations in Andrew LI's report seriously and seek to implement them as soon as possible after he took office ...

DEPUTY PRESIDENT (in Cantonese): Dr WONG, the five minutes is for you to speak on the amendments.

DR HELENA WONG (in Cantonese): ... but the Chief Executive has not fulfilled his promise up to this date. The Chief Secretary has not, on behalf of the Government, provided an explanation to the issues that I raised in my motion. Why has the Government failed to fulfil the promise in these three and a half years? We do not know if the Government has any justifications. The Government has not made any new proposals, taken any actions or formulated any timetable; it just keeps stalling.

Regarding Mr TAM Yiu-chung's amendment, there is no way that we can support it. The reason is that Mr TAM has been beating around the bush. He keeps supporting LEUNG Chun-ying and the Government to conduct one study after another, but when will all studies be completed? No timetable is suggested at all. We cannot support this amendment of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) because the amendment will make it impossible for LEUNG Chun-ying to fulfil his promise made openly, and it will make it impossible to improve the Prevention of Bribery Ordinance (Ordinance).

I did not say that the entire Ordinance is not applicable to the Chief Executive and I think Members of the DAB have just not been listening. What I have said is, since sections 4, 5 and 10 are already applicable to the Chief Executive, why don't we amend sections 3 and 8 as well?

Deputy President, I welcome and support the amendments proposed by Mr Alan LEONG and Ms Cyd HO. I think the only amendment which I cannot accept is the one proposed by Mr TAM Yiu-chung. At a time when the Central Authorities are vigorously combating corrupt public officials, I really do not understand why the DAB proposes this amendment suggesting that LEUNG Chun-ying, as the head of the SAR, can be exempted from being regulated by sections 3 and 8 of the Ordinance. Why would the DAB, being a royalist political party which "loves the country and loves Hong Kong", openly oppose public opinion and act against the Central Authorities' policy direction of fighting corruption? The question entirely baffles me and I think Members of the DAB owe Hong Kong people an explanation.

Mr SIN Chung-kai, my colleague of the Democratic Party, had once indicated before LEUNG Chun-ying and officials of the Central Authorities that if LEUNG Chun-ying was a public official on the Mainland, he would have been

subject to "investigations at the prescribed time and place" long ago. Why does the DAB support the Chief Executive blindly on the issue of his corruption and even disregard the instruction given by "Grandpa" to vigorously fight against corruption?

Honourable colleagues, I appeal to you all that fighting corruption is the responsibility of every Member. All government officials, civil servants, accountability officials and even the Chief Executive should be regulated and no one should be given any exemption. Since sections 4, 5 and 10 of the Ordinance are already applicable to the Chief Executive, I think it is time for LEUNG Chun-ying to fulfil his promise and improve the Ordinance. Let me thank the Liberal Party for supporting my motion, although I do not understand why it also supports the DAB's amendment. I hope that Members will support my motion.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, before giving my concluding remarks, I would like to reiterate that the SAR Government will not tolerate any acts of corruption. All along, we have kept the community clean through the stringent anti-corruption mechanism of the Independent Commission Against Corruption. The SAR Government welcomes and adopts an open attitude towards comments that can help strengthen integrity.

The subject today is extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance (Ordinance) to the Chief Executive. The proposed amendment to section 3 regulates the Chief Executive's soliciting or accepting an advantage and the proposed amendment to section 8 regulates any person who offers any advantage to the Chief Executive. The Government has repeatedly reiterated that the legislative amendments involve constitutional, legal and operational issues, and there is a need for careful studies and holistic consideration.

Deputy President, throughout the years, I listened very carefully to Members' speeches when I attended the meetings of the Legislative Council and I seldom left the meeting. The highest record is that I had not left my seat for nine consecutive hours during a motion debate when I was the Secretary for Development. I am sorry that I left the meeting just now when Mr James TO was speaking; leading to another headcount at today's meeting. It is possibly because I am getting old and have less stamina.

Why do I seldom leave meetings and remain in the Chamber to listen carefully to Members' views? First, I would like to listen to the incisive views of Members, which would help the Government to improve governance. Second, if I hear some unreasonable accusations made by Members, I must refute on behalf of the Government. It is because the speeches of Members or officials in this solemn Chamber will become part of the records of proceedings, and also part of the historical documents of Hong Kong. So, it is the bounden duty of officials to refute the unreasonable accusations made by Members and we do not need to have courage to do so.

I have listened to the speeches of 29 Members today and these Members have constantly repeated certain points. Since I have already described in detail the Government's position and the provisions of the Ordinance applicable to the Chief Executive in my opening speech, I would, as I said earlier, refute some remarks that I consider unreasonable in my concluding speech.

First, Mr IP Kin-yuen's "castle in the air" argument. Mr IP Kin-yuen mentioned that since the era of the first Chief Executive — it seemed that he directly mentioned Mr TUNG Chee-hwa — since the era of the first Chief Executive, the Legislative Council proposed to amend the Ordinance but the amendment to the Ordinance is still a castle in the air. I would like to say that this argument does not tally with the facts. In fact, the Prevention of Bribery (Amendment) Bill 2007 introduced by the Government in 2007 was read the Third time and passed by the Legislative Council in 2008. Consequently, sections 4, 5 and 10 now apply to the Chief Executive. As I have already described the contents of the provisions in detail in my opening remarks, I will not repeat now.

The second argument that I would like to refute is that, as a number of Members have mentioned that the incumbent Chief Executive has not honoured his promise. They pointed out that when the incumbent Chief Executive was the Chief Executive-elect, he made some comments on the report published by the Independent Review Committee chaired by the former Chief Justice Andrew LI. Members have actually quoted two different documents, one of which was the press release issued by the Office of the Chief Executive-elect and another was the verbatim record of the remarks made by the Chief Executive-elect when he met the media. It was stated in the former document, that is, the press release, that the Chief Executive-elect LEUNG Chun-ying welcomed the report and he

would seriously consider the recommendations in the report and strictly implement them as soon as possible after he had taken office. As regards the verbatim record of the remarks made by the Chief Executive-elect when he met the media, I have already quoted them when I gave my opening remarks. I repeat once again that the Chief Executive-elect said that he welcomed the report and he would seriously consider the recommendations in the report and strictly implement them as soon as possible after he had taken office.

I do not want to be criticized by Members for paying excessive attention to wording, but both documents I quoted contain explicit wordings such as "seriously" and "strictly". I believe that, in handling matters "seriously" and "strictly", the Basic Law and the constitutional provisions must be complied with; otherwise, this will violate the Chief Executive's constitutional responsibilities to fulfil the Basic Law and maintain "one country, two systems". We should prudently deal with this position of the Government and make holistic considerations, taking into account the Basic Law and the constitutional provisions. I am not just saying so today and I had already expressed this position in December 2012 and in 2014 in reply to the questions raised by Mr Dennis KWOK and Ms Emily LAU. So, if it is said that the incumbent Chief Executive has not honoured his promise or the SAR Government lacks integrity, this is actually inconsistent with the facts.

Third, I would like to refute Mr SIN Chung-kai's argument. He mentioned that the Independent Review Committee's proposal to set up an independent committee to give the Chief Executive general or special permission to solicit or accept an advantage is a trivial matter and there is nothing serious, and he wondered why that could not be done. I would like to emphasize that we have to determine whether or not the Basic Law is complied with, but not whether it is complied with to a great extent or a minor extent. We should always "refrain from committing any wrongdoings, however minor they may be" and we should also adhere to this principle in upholding the Basic Law.

Fourth, I would like to refute Mr Dennis KWOK's argument. In fact, Mr Dennis KWOK has mentioned nothing new and his description of the case concerning the former Chief Executive is inconsistent with the facts. Although the judicial process on this case has started and I have also publicly said that it is inappropriate to make comments and that we should not judge hastily, his argument is really inconsistent with the facts. Mr KWOK said, and I quote, "At

present, it is not a violation of law to offer advantages to the Chief Executive. The most obvious example is former Chief Executive Donald TSANG who accepted advantages from some businessmen, but none of the businessmen had been bound by the law".

Mr Dennis KWOK is a practising barrister, he should have a better understanding of the legal documents than ordinary people. On 5 October, the Department of Justice issued a very detailed statement on this case, stating — as mentioned by a few pro-establishment Members — that the prosecution of this case is based on the offence of misconduct in public office under the common law. The person concerned has not made declaration or disclosure on two matters and the acceptance of advantages is not mentioned in the whole statement. Dr Priscilla LEUNG is also a member of the legal profession; she has explicit understanding of the case and her interpretation is more accurate than that of Mr Dennis KWOK.

The fifth point is that Dr LAM Tai-fai and Dr Priscilla LEUNG have asked us to focus on facts rather than individuals in this motion debate but I am afraid this is just their wishful thinking. As Mr IP Kwok-him has also noticed, Ms Emily LAU actually make a Freudian slip. She said leaflets would be distributed after voting, which exposed the fox's tail. (*Laughter*) This debate attacks the Chief Executive as part of the election campaign, but I deeply believe that voters in Hong Kong have sharp eyes and they would like to elect Members who call a spade a spade and do practical things for the public.

In my opening remarks, I have already responded to Ms Cyd HO's question on "All people are equal before the law", but since Mr CHAN Chi-chuen has challenged me for further explanation, I will now explain the related matter to him again. Equality before the law does not mean that every legal provision applies to every person. It is because every legal provision is formulated for different purposes and applies to different targets. Mr CHAN Chi-chuen said that it does not apply to different targets because the Chief Executive and the principal officials or even the Chief Executive and the Chief Secretary for Administration are two types of similar persons, is this right? Those are the words of Mr CHAN, two types of similar persons. I am sorry, I am not the same type of person as the Chief Executive and constitutional-wise, we are very different. The Chief Executive is the head of the Hong Kong Special Administrative Region (HKSAR) according to Article 43 of the Basic Law, and the Chief Executive is the head of the Government of the HKSAR according to

Article 60 of the Basic Law. This system of "dual heads, dual responsibilities" is clearly written in the Basic Law. In the past 20 months when the constitutional reform proposal was discussed, I had repeatedly stated that the constitutional status of the Chief Executive was unique.

On one occasion, I explained to some students the unique status of the Chief Executive. I showed them my name card and the Chief Executive's name card and the difference was self-explanatory. It is written very clearly on my name card that I am the Chief Secretary for Administration of the HKSAR Government, but if Members have Mr LEUNG Chun-ying's name card, he is the Chief Executive of the HKSAR. This reflects his unique status.

Finally, I have to respond to one question: Why does it take such a long time to deal with the regulation of the Chief Executive? I hope Members would understand that it takes some time to deal with all issues related to the constitutional system. We understand the seriousness of this matter as it involves constitutional and legal considerations. For this reason, Secretary for Justice Rimsky YUEN and I are dealing with this matter. However, I heard the comments made by President Jasper TSANG, and I fully agree with him. Last Thursday, that is, on 5 November, the Council was aborted due to a lack of quorum. President Jasper TSANG met the media after the meeting and he said, "At present, as Members have special reasons, they often make use of the quorum requirement of Council meeting to request a headcount, challenging the past practice of the Council. In the fifth term, that is, the current term of the Legislative Council, the Council has been aborted several times due to a lack of quorum. Even if the Council is not aborted, the summoning bell has often been rung and we have to wait for Members to return, which is really a waste of time. This situation is very undesirable. I have requested more than once the Committee on Rules of Procedure of the Legislative Council to study the possibility of avoiding this problem which has continuously caused much disturbance. But unfortunately, so far, we have not ...

(Mr Albert CHAN stood up)

MR ALBERT CHAN (in Cantonese): Deputy President, a point of order. Deputy President, the remarks given by the Chief Secretary is unrelated to the Agenda, and I hope Deputy President would give a fair ruling.

DEPUTY PRESIDENT (in Cantonese): I think the Chief Secretary's remarks are related to this subject.

Chief Secretary, please continue with your speech.

MR ALBERT CHAN (in Cantonese): How is it relevant? Deputy President, can you explain how it is relevant? How is her remark about the abortion of Council meeting relevant to the ordinance concerning the Chief Executive, Deputy President? You are practising favouritism, Deputy President.

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

Chief Secretary, please continue with your speech.

(Mr Albert CHAN was still standing and speaking loudly)

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

MR ALBERT CHAN (in Cantonese): Deputy President, I would like to leave the Chamber in protest.

(Mr Albert CHAN continued to speak loudly)

DEPUTY PRESIDENT (in Cantonese): Mr Albert CHAN, if your disorderly conduct continues, I will order you to leave the Chamber immediately.

(Mr Albert CHAN talked while leaving the Chamber of his own accord)

DEPUTY PRESIDENT (in Cantonese): Chief Secretary, please continue.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): I have not read aloud the most relevant paragraph. The most relevant paragraph is that President Jasper TSANG continued, "... this problem which has continuously

caused much disturbance. But unfortunately, so far, we have not figured out a solution to this issue that is acceptable to all and consistent with the Rules of Procedure and the Basic Law." Hence, this also proves that it is not easy to find a solution that complies with the constitution.

Members have said that I have been an Administrative Officer for so many years and there is no reason why I would not understand the operation of this Council and the importance of this matter. I fully understand and that is why I will continue to follow up on this issue very seriously. However, I would like to borrow Ms Emily LAU's sentence: how many three to four years are there in a person's life? I have worked for the Government for over 30 years and it is regrettable that this Council is now wasting time in such a way.

With these remarks, Deputy President, I implore Members to vote against the original motion and the amendments of Mr Alan LEONG and Ms Cyd HO, and vote for Mr TAM Yiu-chung's amendment. Thank you, Deputy President.

DEPUTY PRESIDENT (in Cantonese): I now call upon Mr Alan LEONG to move an amendment to the motion.

MR ALAN LEONG (in Cantonese): Deputy President, I move that Dr Helena WONG's motion be amended.

Mr Alan LEONG moved the following amendment: (Translation)

"To delete "in this connection" after "the Ordinance;" and substitute with "the incident concerning the Chief Executive LEUNG Chun-ying's alleged receipt of benefits from UGL Limited, an Australian corporation, has led some members of the public to worry whether the Administration's delay in amending the Ordinance is related to this incident; Mr LEUNG's earlier open remark that the Chief Executive holds a transcendent status has also led the public to worry that the Chief Executive may not be bound by law; in order to uphold the Chief Executive's reputation"; and to delete "be above" after "will not" and substitute with "transcend"."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Alan LEONG to Dr Helena WONG's motion, be passed.

DEPUTY PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

DEPUTY PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Alan LEONG rose to claim a division.

DEPUTY PRESIDENT (in Cantonese): Mr Alan LEONG has claimed a division. The division bell will ring for five minutes.

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

(Some Members talked loudly)

PRESIDENT (in Cantonese): Will Members please keep quiet.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Mr Vincent FANG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen and Mr CHUNG Kwok-pan voted for the amendment.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr TANG Ka-piu, Ir Dr LO Wai-kwok and Mr Tony TSE voted against the amendment.

Mr POON Siu-ping abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr James TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted against the amendment.

Mr Michael TIEN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 31 were present, 12 were in favour of the amendment, 18 against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 32 were present, 18 were in favour of the amendment, 12 against it and one abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

MR ANDREW LEUNG (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive" or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG be passed.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority respectively of each of the two groups of Members, that is, those returned by functional constituencies and those returned by geographical constituencies through direct elections, who are present. I declare the motion passed.

I order that in the event of further divisions being claimed in respect of the motion on "Extending the application of sections 3 and 8 of the Prevention of Bribery Ordinance to the Chief Executive" or any amendments thereto, this Council do proceed to each of such divisions after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, you may move your amendment.

MR TAM YIU-CHUNG (in Cantonese): President, I move that Dr Helena WONG's motion be amended.

Mr TAM Yiu-chung moved the following amendment: (Translation)

"To delete "submit to this Council an amendment bill on the Prevention of Bribery Ordinance pursuant to the recommendations of" after "expeditiously" and substitute with "complete the study on the recommendations put forward by"; and to delete "to plug the loopholes in the law, so that the Chief Executive will not be above the law which applies to politically appointed officials and civil servants" immediately before the full stop and substitute with ", and to handle the aforesaid issue in compliance with the constitutional requirements under the Basic Law"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr TAM Yiu-chung to Dr Helena WONG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Gary FAN rose to claim a division.

PRESIDENT (in Cantonese): Mr Gary FAN has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

(Some Members talked loudly)

PRESIDENT (in Cantonese): Will Members please keep quiet.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted for the amendment.

Mr James TO, Mr Frederick FUNG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr IP Kin-yuen voted against the amendment.

Mr Albert HO abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Michael TIEN, Mr James TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted against the amendment.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 31 were present, 22 were in favour of the amendment, eight against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 32 were present, 14 were in favour of the amendment and 17 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

(Some Members talked loudly)

PRESIDENT (in Cantonese): Will Members please keep quiet.

PRESIDENT (in Cantonese): Ms Cyd HO, you may move your amendment.

MS CYD HO (in Cantonese): I move that Dr Helena WONG's motion be amended, and claim a division.

Ms Cyd HO moved the following amendment: (Translation)

"To delete "pursuant to" after "on the Prevention of Bribery Ordinance" and substitute with "to strictly implement"; and to add "so as to enable this Council to complete the scrutiny of and pass the relevant amendments within the current term of the Legislative Council" after "recommendations of the Independent Review Committee"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Ms Cyd HO to Dr Helena WONG's motion, be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

PRESIDENT (in Cantonese): Ms Cyd HO has claimed a division. The division bell will ring for one minute.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Mr Vincent FANG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen and Mr CHUNG Kwok-pan voted for the amendment.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Ms Starry LEE, Mr CHAN Kin-por, Mr NG Leung-sing, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG, Ir Dr LO Wai-kwok and Mr Tony TSE voted against the amendment.

Mr WONG Ting-kwong, Mr IP Kwok-him, Mr Steven HO, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Martin LIAO, Mr POON Siu-ping and Mr TANG Ka-piu abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr James TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the amendment.

Dr Priscilla LEUNG and Mrs Regina IP voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Michael TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT and Dr CHIANG Lai-wan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 31 were present, 12 were in favour of the amendment, 11 against it and eight abstained; while among the Members returned by geographical constituencies through direct elections, 32 were present, 18 were in favour of the amendment, two against it and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): As Dr Helena WONG has used up all of her speaking time, I will not call upon her to speak in reply.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Helena WONG be passed. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr LEUNG Kwok-hung rose to claim a division.

PRESIDENT (in Cantonese): Mr LEUNG Kwok-hung has claimed a division. The division bell will ring for one minute.

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PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Mr Vincent FANG, Prof Joseph LEE, Mr CHEUNG Kwok-che, Mr Frankie YICK, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK, Mr IP Kin-yuen and Mr CHUNG Kwok-pan voted for the motion.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Ms Starry LEE, Mr NG Leung-sing, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Christopher CHEUNG and Ir Dr LO Wai-kwok voted against the motion.

Mr WONG Ting-kwong, Mr CHAN Kin-por, Mr IP Kwok-him, Mr Steven HO, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu and Mr Tony TSE abstained.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr James TIEN, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Mrs Regina IP voted against the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr Michael TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT and Dr CHIANG Lai-wan abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 31 were present, 12 were in favour of the motion, nine against it and 10 abstained; while among the Members returned by geographical constituencies through direct elections, 31 were present, 18 were in favour of the motion, one against it and 11 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Since this Council will unlikely manage to finish all the business on the Agenda by 10 pm today, I will suspend the meeting at around 8 pm and resume the meeting at 9 am tomorrow.

PRESIDENT (in Cantonese): Debate on motion with no legislative effect.

PRESIDENT (in Cantonese): The motion debate on "Strengthening vocational education".

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

I now call upon Dr CHIANG Lai-wan to speak and move the motion.

STRENGTHENING VOCATIONAL EDUCATION

DR CHIANG LAI-WAN (in Cantonese): President, people of the older generations used to tell young people, "Never ever enter a wrong trade." Why? I believe everyone would agree that choosing the right occupation is the key to a successful career. However, when we look around us these days, many young people say they cannot find the right job or they complain that not too many jobs are suitable for them. But when we ask them what kind of job is suitable for them, they do not have the answer. Older people may think that young people simply do not want to work and they prefer not to work at all. But it is unfair to make such a comment.

Just think about it, young people are full of vigour and energy. Why then do they reign themselves to staying at home all day long instead of going out to work? I believe if there are such young people, they must be miserable. If they stay at home all day long, seeing no future for themselves, their misery will gradually turn into anger and bitterness and they may go to the extremes. How can we help the younger generations find the right occupation? Today I propose this motion on these questions and urge the Government to vigorously promote vocational education, as well as perfect the development of career and life planning.

First of all, we must help students make proper career and life planning in the secondary school. President, as an old saying goes, "If one does not have an aspiration, it is just like a boat without the helm." If young people do not know what they aspire in life, they can hardly carve out a career for themselves.

Hence, if young people have an idea about their goal for life, interest and even the job opportunities in the future market at an earlier stage, it is easier for them to find the right occupation for themselves. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has repeatedly urged the Government to promote career and life planning. In the 2014-2015 Legislative Session, the first motion I proposed was related to career and life planning with the title "Assisting young people in their development on all fronts". I was grateful that the Government took on board the DAB's proposal to strengthen the support for career and life planning. Since last year, it has provided every school that offers senior secondary classes with a sum of \$500,000 to promote career and life planning.

What is the result of life and career planning since its introduction? The DAB has certainly followed up. This year, we interviewed 876 secondary students between Form 4 and Form 6, and found that over half of the students agreed that career and life planning was important, but 45% of the students thought that there was insufficient support for relevant activities. Some teachers told me that the biggest problem was the lack of internship opportunities. To gain a better understanding of the importance of internship, three Members from the DAB joined a Legislative Council delegation to visit Germany and Switzerland, the two countries which have attained great success in their vocational education.

Germany has put in place the system of dual vocational education that emphasizes both the theory and practical training. Apart from learning in the classroom, students also work for enterprises. Students are exposed to various types of jobs while they are still in secondary school and before they graduate, they may have already had the experience of working at four or five jobs and gained certain understanding about the future workplace. One should note that half of the secondary students in Germany do not go to university immediately after graduation. As a matter of fact, all universities in Germany are free and there are sufficient places for all students, then how come over half of the secondary graduates do not attend university immediately? The reason is that they think they have been in school for many years and have some understanding about the theories; hence they wish to take up a job earlier to gain a better understanding about the trade and in future when it is necessary, they will then go to university. By that time, they will have a clearer idea about what academic subjects are conducive to their career development.

President, I am a firm believer of an education system that emphasizes both the theory and practical training. As such, I have four proposals. First, I propose that the Government take the lead in forming a student internship platform. For many years, vocational education has trained numerous talents for various trades and industries in Hong Kong and many enterprises have benefited from it. Therefore, talent training is not only the duty of the Government and the education sector, but also the social responsibility of enterprises. As over one quarter of all enterprises in Germany have participated in providing vocational training for students, Hong Kong enterprises are also duty-bound to provide students with internship opportunities.

Of course, it would be better if the Government can take the lead. In particular, LEUNG Chun-ying, the Chief Executive, has called upon various sectors in society to offer more internship opportunities for students. But many teachers have told me that many students are unable to find internship opportunities because organizations normally do not accept inexperienced students. Hence, I suggest the Government to take the lead and join hands with different organizations in society to form a student internship platform and provide students with the opportunity to work during holidays so that they can have first-hand exposure to the actual situations in different workplaces. Then, they can have a better understanding about what occupations are suitable for them.

Secondly, I suggest the Government to step up the support for the policy on career and life planning. Since career and life planning is a novel idea which was only officially launched in September last year, we find that many teachers do not know or grasp the teaching approach. Hence, I propose that consideration should be given to making career and life planning a mandatory subject in the teacher training and education programmes, and teachers of this subject must be certified, so as to raise the quality and status of this subject to a professional level. At the same time, I also propose the Government to assist in training highly skilled and experienced workers in various trades and industries, and recruiting them as mentors in career and life planning, sharing directly with students their life experience and knowledge gained from their work in the past.

Thirdly, I suggest the Government to publish an annual projection of the manpower demand of various trades and industries. Everyone knows that in recent years, there has been a serious mismatch of manpower. Recent statistics

show that among the various age groups, the unemployment rate among young people is relatively high, at 12%. While the retail, hotel and catering industries are short of about 20 000 workers, there are a total of about 42 000 young people out of work. Another example is, as we all know, some time ago when the dot com shares were very popular, many students flocked to study information technology courses, which led to a surplus of workers in this field. However, in the past few years, there has been a shortfall of information technology students. Not only so, teachers and social workers also have similar problems of manpower mismatch.

While there are job vacancies left unfilled, some people remain jobless. Why is it so? According to the Government's manpower projection, by 2022 there will be a shortfall of 110 000 workers in Hong Kong and there will be over 50 000 persons who have attained a master or doctoral degree in education. That means there will be a surplus of talent. What is to be done? I suggest the Government to take early precautions and make a projection of the manpower demand of the 10 or 20 leading trades and industries in the next few years, so as to give young people a rough idea what trades and industries will be more popular in future before they decide on the courses to be taken at university or their future career. They may know that if they enrol in certain programmes, they may have a better chance of getting employed. I think that this can give students more options.

Fourthly, I suggest the Government to continue to improve the Qualifications Framework and enhance publicizing the image of specialized workers. Many people think that only those have poor academic results will choose to receive vocational education, this is a prejudice. When I visited the Vocational Training Council (VTC) some time ago, I met a young person who, after enrolling in a science programme in the University of Hong Kong for one year, found that he disliked the course and then took up a Higher Diploma in Landscape Architecture programme offered by the VTC because that was where his interest lied. I believe that he will have a bright future in this field.

As we all know, many people like to "do first and learn next". For example, the former German Chancellor Gerhard SCHRÖDER was an apprentice in retail sales when he was young, and Felix MAYER, one of the world's leading founding manufacturers of electronic components, was once an apprentice in Siemens. Mr MAYER once said that receiving vocational education was the

key to his success. There are plenty of successful people who have chosen vocational education over university education. Therefore, I think the Government should step up the promotion of the idea that "every trade has its masters" to boost the image of vocational education, and emphasize that one can also achieve success in life with vocational education.

President, let me cite another example. My father is a rather successful industrialist but he only had four years of primary education. He always says that he is not very clever but why is he successful? He says that what matter most is not the education level one attains but whether the trade one chooses is right for him. As long as one chooses the right trade, he will like it and enjoy working in it and if he enjoys working in that particular trade, he will be dedicated to it. If one is dedicated to his work, he will do it well and even give full play to his potentials. As a result, he will more likely attain success.

Jacky CHEUNG has a song entitled "Soaring ambition, blazing sun" and the first verse of the song is, "Today the rugged road I fear not, for I have my life to plan." What plan did young people in the past have in mind for their lives? What ambitions and ideals did we have? What were our dreams? If we ask young people today what ambitions and dreams do they have, they would say, since they do not know what tomorrow holds, why not quit their job, travel around and enjoy life and then make their plans. From this we can see that we must help the young people set their goals for life.

I put forward the above proposals in the hope that the Government and Members will support strengthening vocational education with equal emphasis on theory and practice. I hope that we will work together to help the younger generations ... help them set their goals in life and break new grounds.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): Dr CHIANG, please move your motion.

DR CHIANG LAI-WAN (in Cantonese): President, I now move my motion on "Strengthening vocational education".

Dr CHIANG Lai-wan moved the following motion: (Translation)

"That this Council urges the Government to vigorously promote and strengthen vocational education with equal emphasis on 'theory and practice'; at the extramural level, the Government should join hands with industrial and commercial enterprises and different organizations in society to form a 'student internship platform' to provide secondary and tertiary students with different types of internship opportunities, offering young people opportunities of first-hand exposure to the actual situations in different workplaces and facilitating them to select occupations suitable for themselves as early as possible; and at the intramural level, the training programme places and support for career and life planning instructors should be increased to enable instructors to grasp various types of new theories, practical knowledge and counselling skills, with a view to assisting instructors in guiding students to make choices about further studies and career based on their own interests, aspirations and abilities, so as to perfect the policy on career and life planning education."

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): Five Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the five amendments.

I will call upon Members who move the amendments to speak in the following order: Mr IP Kin-yuen, Mr CHEUNG Kwok-che, Mr POON Siu-ping, Prof Joseph LEE and Mr KWOK Wai-keung; but they may not move the amendments at this stage.

MR IP KIN-YUEN (in Cantonese): President, first, I thank Dr CHIANG Lai-wan for moving this motion, so that today we can discuss the current development of vocational education. The current-term Government advocates the development of vocational education as well as career and life planning, but there are still many problems. In particular, nowadays excessive emphasis is put

on vocational education at the tertiary level, while vocational education at the senior secondary stage is not that satisfactory. For this reason, I have today proposed an amendment, with the hope of suiting the remedy to the case, putting forward concrete ways to improve vocational education at the senior secondary stage.

Why do I propose the promotion of vocational education at the senior secondary stage? This stage is actually very important. Regarding Hong Kong's vocational education in the past, students attended prevocational schools at the junior secondary stage, and nowadays they only receive vocational education at a later stage, namely the tertiary stage. It is both inappropriate for vocational education to start too early or too late. When we take a look at most places in the world, we will realize that their vocational education all starts at the senior secondary stage, which is a very important stage. What about senior secondary education in Hong Kong? If we go to any school in Hong Kong, be it a Band 1 or Band 3 school, we will find that it is invariably a grammar school. Our students at the secondary or, more precisely, senior secondary stage have virtually no choice, and the only choice available is to drop out of school.

Earlier, Dr CHIANG Lai-wan, various other Members and I visited Germany and Switzerland to learn about vocational education there. I know that Secretary Eddie NG also paid a visit to the two places to learn from their experience. The vocational education of the two places is indeed renowned across the world, with some 50% or even 60% of students receiving vocational education at the senior secondary stage. In our neighbouring places, such as Taiwan and the Mainland, some 40% or 50% of students likewise receive senior secondary vocational education. That said, the situation in Hong Kong is different, where most students at the senior secondary stage enrol in very academic courses in grammar schools before taking the Hong Kong Diploma of Secondary Education Examination, which is the only pathway for most of them.

Such a pathway is dubbed a "single-plank bridge" on the Mainland. On this "single-plank bridge", students attend the same academic courses. They have another choice, that is, to drop out of school. How many students drop out of school for failing to fit in with the academic courses? According to our statistics, among the first three cohorts of students under the New Senior Secondary Academic Structure, a steady 12% drop out of school each year as they progress from Secondary Four to graduation at Secondary Six, and that is equivalent to some 9 000 to 9 500 or nearly 10 000 persons per cohort.

President, 10 000 persons per cohort drop out of school, and this is not a small figure. Besides, we also need to count the number of fellow students who have endured three years before leaving their senior secondary schools dejectedly with no remarkable achievement.

Several months ago when we visited Germany and Switzerland, we noted that their senior secondary vocational students were very happy either at workshops or at schools, in stark contrast to our melancholic students. Students in these two places can identify a place where they can get a foothold, be rewarded and find satisfaction. They can find great returns in their work, and if they find any inadequacies in their work, they can return to school to study. As they have been working, they clearly know what to learn in school and why they have to acquire such knowledge. In contrast, many Hong Kong students do not know why they need to continue with their studies. Most importantly, we are unable to provide our students with any qualification other than the Hong Kong Diploma of Secondary Education Examination. As such, our students are in a predicament. We can actually make our students happier, their studies more meaningful and the economy of Hong Kong more prosperous. Why do we not give more thoughts in this connection?

In fact, I would like to state a few points. First, senior secondary schools in Hong Kong are not without vocational education, as the Vocational Training Council offers some Youth College courses, though the number of such courses is limited. In addition, we have three featured senior secondary schools that offer a large number of vocational education programmes, and they are CCC Kung Lee College, Caritas Charles Vath College and HKICC Lee Shau Kee School of Creativity. I have to declare that I was once the principal of HKICC Lee Shau Kee School of Creativity. In these three senior secondary schools, particularly CCC Kung Lee College and Caritas Charles Vath College, the vocational education programmes offered are reputable. For example, the schools offer hotel and catering management programmes or work-based learning programmes, so that students can put more efforts to learn languages, including English and Chinese, while working. HKICC Lee Shau Kee School of Creativity offers arts-related programmes. The schools also offer many internship opportunities for students to gain work experience. In addition, mentorship programmes are also offered. Some programmes are even linked with the Qualifications Framework, so as to assist students in obtaining the recognition of relevant qualifications.

Last week various Members met with the principals of the three schools to learn about their conditions. One of the principals told us that they are like "orphans" under the policies, and that there is a mismatch. While many students are in need of vocational education, such schools are unable to find their position in the entire system. The reason is that they are senior secondary schools with only Secondary Four to Secondary Six classes but no junior secondary classes. The problem is how such schools should be connected to general schools such that other students will know their existence? Can the Government offer assistance to enable more junior secondary students to get to know such schools and apply for admission? Since such schools mainly engage in vocational education, their need in terms of equipment, facilities and expenditure is different from that of general grammar schools that mainly engage in imparting knowledge. Can the Government make different arrangements as regards the computation of costs and subvention? All such arrangements are very important. The Education Bureau not only helps such colleges, but also students.

My second point is related to my amendment. The Government often claims that we already have Applied Learning in place. While Applied Learning certainly represents a sort of working experience and may be helpful to ordinary students, it is poles apart from vocational education. For example, under the dual system of vocational education in Germany and Switzerland, trainees work as interns in the workplace for about three and half days each week, and they learn grammar and other relevant knowledge in schools for one and half or two days per week. Such a systematic pedagogical approach is poles apart from Hong Kong's existing mode of Applied Learning, under which students are unable to pursue further studies after gaining a little knowledge.

Third, I would like to raise a problem with career and life planning. Career and life planning is a very good arrangement, but the funding for each school is a recurrent cash grant of \$500,000, which is insufficient for creating a permanent post of senior teacher or officer to co-ordinate the work for career and life planning education in the entire school. As a result, a grant of \$500,000 is unable to bring about the desired effect. I hope improvement can be made in this respect.

I think each of our students has his own unique characteristics, and we need different forms of education (*The buzzer sounded*) ... to cater for their needs.

I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): First of all, I want to thank Dr CHIANG Lai-wan for proposing this motion to allow us to express views on vocational education.

President, some people said that young people nowadays have no achievement, weak competitiveness and can hardly move up the social ladder, and so they called them "廢(feil)青" ("useless youth"). And, in the aftermath of last year's Umbrella Revolution, even young people who pursue democratic development are also called "useless youth". The Government subsequently launched a series of youth activities at the Youth Square under the concept of "沸(feil)青" ("Passionate Youth"), in an attempt to replace the word "廢" (which also means decadent) with "沸". There is no doubt that young people are passionate deep in their hearts, and they are enthused with a passion for changes in the educational, economic, welfare and political systems. Nonetheless, the upward mobility problem encountered by young people cannot be resolved by merely organizing a couple of youth activities. President, the purpose of proposing an amendment to the motion "Strengthening vocational education" is precisely to help young people by incorporating vocational education, which does not belong to mainstream grammar education, into secondary education, with a view to enhancing the competitiveness of young people and the community at large.

According to the data of 2014 published by the Census and Statistics Department, while the unemployment rate of young people aged between 15 and 29 was lower than 10 years ago, it is still higher than other age groups. The median monthly income of young people aged between 15 and 24 was \$10,000 a decade ago, it rose to \$15,000 when they fell to the age group between 25 and 34 a decade later, which has barely caught up with this year's median monthly income of all employees. However, since the price of different consumption items have increased with inflation, the growth in income of young people has been offset. As shown in the research brief "Social mobility in Hong Kong" released by the Legislative Council Secretariat early this year, over 60% of employees stayed in the same quintile of earnings ladder over a period of five years whereas nearly 50% of employees stayed in the same quintile of earnings ladder after 10 years of work. With regard to occupational mobility, the brief pointed out that the share of high-ranked jobs in total workforce has increased in the past decade, but this is simply a result of the indiscriminate use of high-ranked job titles, which have no direct correlation with job content and salary.

The major reason for the lack of mobility opportunities and low salary increase of young people is the homogeneous economic structure in Hong Kong. President, we all know that Hong Kong is a society which cares only about commerce and trade, which together with the four pillar industries, namely financial services, tourism, trading and logistics, and producer and professional services, account for more than 50% of our Gross Domestic Product and resulted in our homogeneous economic structure, thereby directly affecting the local employment structure. As a result, over the past decade, industries that have recorded an increase of 40% in total employment include properties, finance, insurance and construction. The homogeneous economic structure has a direct implication on the disciplines of study of students, which can be evident from the 2011 Hong Kong Population Census. The results of the Census showed that, between 2001 and 2011, "Business and commercial studies" was the most popular field of post-secondary education, accounting for 32% of persons with post-secondary students. This was followed by "Arts and social science" and "Architecture and construction engineering". In 2012, about 16% of the graduates joined the financial industry, which belonged to the top three income quintiles.

From this, we can see that the development of the employment market certainly affects the programmes enrolled by students in universities. According to the 2015 Edition of the Hong Kong Annual Digest of Statistics, of the recurrent government expenditure on education over the past decade, secondary education has all along accounted for more than 30%, whereas vocational education accounted for only 4%. While secondary education is grammar-oriented, the curriculum content of Youth College which provides places for young people unsuitable for secondary grammar education was also designed to tie in with our four economic pillars. And, unlike the vocational education provided by overseas countries, the Youth College is only a stepping stone for students to pursue further studies. Nonetheless, after visiting Germany and Switzerland with the Panel on Education to study their form of vocational education in September, I found that the adoption of a dual-track system in senior secondary education has enabled students to choose either grammar or vocational education, with the latter leading eventually to university education as well. Furthermore, vocational education of these two places also requires students to take up paid jobs in the relevant enterprises, so that they can apply the knowledge acquired in classroom to real operation.

This form of secondary vocational education, integrating theory and practice, is not infeasible in Hong Kong, and steady development has actually been achieved in three secondary schools. As Mr IP Kin-yuen has said, the three secondary schools are CCC Kung Lee College, Caritas Charles Vath College and HKICC Lee Shau Kee School of Creativity. They have drawn on overseas experience to adopt the dual-track system of vocational education and training, such that students can apply the vocational knowledge acquired in classroom during their internship. There are currently hundreds of enterprises providing internship opportunities for these students. However, these schools have received unfair treatment in funding. In 2000, the Government encouraged these schools to operate under the Direct Subsidy Scheme mode and subsidy would be granted on the basis of the number of students enrolled, disregarding the admission grades and the expenditures incurred in providing internship in enterprises. We learnt that apart from HKICC Lee Shau Kee School of Creativity, students admitted by the other two schools are mostly losers of grammar secondary education, and among them are young single mothers who have taken up study again or people who regain interest in learning after finding fun in their jobs. Therefore, the expenditures on counselling borne by these schools are higher than ordinary grammar schools. These three schools not only help students to identify their career path, but have also successfully nurtured many talents for various industries. They are certainly the exemplary models of the future development of senior vocational education in Hong Kong, and can attract the enrolment of Form Three graduates who are interested in vocational education.

At present, the Education Bureau needs to examine the position and funding mode of vocational education in Hong Kong, and explore the development of higher vocational education. It should also try to eliminate the public's bias against vocational education, so that students who have attained either Level 1 or 2 and are interested in taking career-oriented courses will have an opportunity to receive vocational education. On the other hand, the Government should also enhance the recognition of the Qualifications Framework, which would in turn enhance the recognition of secondary vocational education, thereby enabling the dual-track vocational education to become mainstream education. President, I trust that there are many supporting organizations in Hong Kong ready to contribute their efforts to help nurture talents for the industry and promote vocational education in secondary schools.

The successful co-operation between those three schools and the industry has proved that it is absolutely viable to introduce vocational education in secondary schools.

While vocational education and economic development are closely intertwined, a diversified economy also owes much to the design of vocational education curriculum. As we can see, the vocational education provided in Germany and Switzerland offer more than 200 disciplines of studies for students, whereas enterprises and business associations also value the role of vocational education in economic development. Therefore, business associations of Germany and Switzerland have provided great resource support and given recognition to the position of vocational education. I hope that capitalists in Hong Kong will, apart from making profits, contribute their efforts for the sake of future economic development and career choices of young people by supporting vocational education.

President, the Government always stresses the need to strengthen the local economy and increase human resources, but the diversification of industries requires talents. Vocational education can precisely nurture the necessary talents required by local industries on a long term basis. Thus, the Government should not focus solely on the provision of hardware to the neglect of software, because only through making institutional changes, such as developing vocational education alongside with grammar education, can our young people regain the freedom to study and work, and go in tandem with the economy as it diversifies.

President, I so submit.

MR POON SIU-PING (in Cantonese): President, we are now at a time of great changes taking place worldwide. On the one hand, in the face of the challenges of globalization, talents from different regions engage in direct competition with each other. On the other, in the face of rapid technological development, some traditional occupations and even professions are being replaced by robots. How Hong Kong's education system keeps abreast of the times and nurtures talents has a bearing not only on the job opportunities for young students, but also on whether Hong Kong can maintain sustainable development and avoid going downhill.

The Chinese have always attached a great deal of importance to education. The past saying that "All other pursuits are inferior, intellectuals hold the highest regards" and the modern saying that "wage earners will never come to the fore" reflect our tradition of attaching importance to education, but at the same time, they also reflect our erroneous understanding about education. If our discussion over vocational education today is still centred on strengthening internship opportunities as well as perfecting career and life planning for students in traditional grammar schools, we will be far from achieving the objective of strengthening¹ vocational education and nurturing talents for Hong Kong in a comprehensive way.

As regards our education system, we follow the tradition of regarding arts as superior to science. Nowadays the Government provides students in public sector schools with 12-year free primary and secondary education. Upon completion of junior secondary courses, students will normally continue to receive senior secondary education in the same school or attend full-time vocational training courses run by the Vocational Training Council (VTC) fully subvented by the Government. In September 2014, some 300 000 students were enrolled in 395 public sector secondary schools in Hong Kong. However, in the same year, the number of Secondary Three or Secondary Six school leavers admitted to full-time programmes by the VTC through its various schools was only some 20 000, representing less than 10% of the total number of students in public sector secondary schools. However, in the 2013-2014 school year, the number of places of self-financing and publicly-funded associate degree programmes was nearly 40 000, which was far higher than the number of places of full-time programmes provided to Secondary Three or Secondary Six students by the VTC.

Ever since its introduction, the associate degree system has seen the problems of unclear positioning, varying quality and low social recognition. Furthermore, in order to resolve problems with the pathway for associate degree graduates, resources must be reserved in universities to allow a small number of associate degree graduates to enrol in articulation courses and pursue further education. A more serious problem is that associate degree programmes and vocational education vie for students who do not pursue further education in

¹ In his speech Mr POON Siu-ping pronounced the character "強" (keong4) in "強化職業教育 (strengthening vocational education)" as "koeng5".

traditional schools, thus dealing a direct blow to the development of vocational education. In order to strengthen vocational education, the Government must comprehensively review the associate degree system, replace it with vocational education as the main pathway to further education for young students, and substantially increase the number of places of vocational training articulation courses. Only by doing so can the Government truly develop vocational education in Hong Kong.

President, in July this year the Task Force on Promotion of Vocational Education under the Government released a report, in which it proposed rebranding "vocational education and training" as "vocational and professional education and training", covering programmes up to degree level, and advised the Government to strengthen promotion and change the attitude of overlooking vocational education in society. I am supportive of the proposals of the Task Force. However, in order to achieve the objective of the Task Force, we must, rather than merely making superficial efforts, earnestly strengthen vocational education, including retaining and strengthening front-line teachers and talents, and attracting young people to enrol in programmes, so that vocational education graduates will not be inferior to graduates of traditional schools. In this connection, the report is still very much vague in its contents.

The VTC plays a critical role in vocational education. According to front-line staff of the VTC, following the delinking of the VTC from the Government and operating on a self-financing basis, the workload of front-line staff has been increasingly heavy, and their jobs are increasingly unstable. Nowadays the VTC has many staff employed on a two-year or even one-year renewable contract, and the mechanism of appointing employees having worked for six years continuously on a permanent basis exists in name only. In 2014-2015, the total number of VTC employees was 5 700, but there were only 508 permanent staff members having worked more than six years. Job instability seriously affects the education work of the VTC.

In order to promote vocational education in Hong Kong, the VTC must strike a balance between the nurturing of talents and the mode of commercial operation. I hope that the VTC can properly handle its disputes with front-line staff, so that they can join hands to contribute to Hong Kong's vocational education.

Apart from the VTC, the Government has, following the education reform in 2000, encouraged the establishment of three featured senior secondary schools, namely CCC Kung Lee College, Caritas Charles Vath College and HKICC Lee Shau Kee School of Creativity, which stand between vocational education and traditional education. Yet, such schools are ignored in terms of education and resources. The Government should review afresh the positioning of featured senior secondary schools and, if it affirms their functions, allocate more resources to foster their development.

President, in May this year the Research Office of the Legislative Council released an Information Note on Vocational Education and Training in Germany. Upon reading the information, I had mixed feelings. Germany has a well-established tradition of apprenticeship training, with which Hong Kong can hardly compare. According to the report, however, the business community in Germany generally views the training expense as a sort of investment, and the training cost borne by the employer for each apprenticeship amounted to \$15,000 per month in 2013 alone. In response to the booming construction industry of Hong Kong in recent years, local employer groups have vigorously called for the expansion of labour importation, but they have rarely made any long-term commitment for Hong Kong's young people in terms of vocational training. An example is the Development Bureau's funding application of \$100 million approved by the Council this year for the training of semi-skilled and skilled workers by the Construction Industry Council. The Construction Industry Council not only needs to provide trainees with training subsidies, but also needs to compensate participating instructors for the loss of employer productivity.

I will not cherish the illusion that employers in Hong Kong will, like their counterparts in Germany, commit more money to vocation education that the amount subsidized by public money. That said, it is only rational and justified that Hong Kong employers should take on more responsibility for vocational education. And the Government should offer incentives to encourage employers to take on the responsibility for vocational training on their own initiative. In addition, the Government should attach more importance to vocational education as a condition for employment in formulating its employment policies. Only through a multi-pronged approach can Hong Kong's vocational education develop properly and nurture more talents for Hong Kong.

President, I so submit.

PRESIDENT (in Cantonese): Mr POON, the subject of this motion is "Strengthening vocational education" and the Chinese character "強" should be pronounced as keong4.

PROF JOSEPH LEE (in Cantonese): President, vocational education is actually not a new issue, but I do thank Dr CHIANG Lai-wan for proposing this motion today.

I remember that when I was a student, there were vocational secondary schools. Students who had good academic results would enter traditional grammar schools while those who did not perform so well might consider studying in vocational secondary schools. Prevocational schools came into existence in the latter part of the 70s and 80s. At that time, the purpose of vocational education was clear. It served to assign students to different streams according to their talents as some people might be stronger in one area and others in another. The system was effective.

Certainly, that system does not exist anymore. As pointed out by Dr CHIANG Lai-wan, we only have traditional grammar schools in Hong Kong now. What do these grammar schools teach? I do not know if the subjects offered are the same as what we had before. Back then, carpentry and domestic science were taught in junior forms and in senior forms, students were put in different classes teaching cultural, industrial and technical subjects respectively. This approach no longer exists and students are not offered these choices any more. I do not know what they would do now when they have no choice.

I propose an amendment today mainly to tell the Government that it has let slip a good opportunity. Why? Secretary, the system called the Qualifications Framework has already been set up to promote vocational education, just as Dr CHIANG Lai-wan has hoped. If vocational education is complemented with the Qualifications Framework, young people will have more choices and they can identify their strengths and weaknesses better. If young people can be diverted to receive training in vocational schools at an early stage, their qualifications will be recognized upon completion of their studies in vocational schools, and there are recognized career progression pathways, parents will feel at ease to let their children study in these schools. If all young person in Hong Kong study in universities, I really do not know if they can get any jobs in the future.

With economic restructuring in Hong Kong in the 80s, more and more vacancies have been created in the service industry. With a gradual decline in the crafts and technical trades and the relocation of our manufacturing industry to the Mainland, the number of vacancies in these fields has reduced. However, we should not forget that Hong Kong still needs people in building infrastructures and repairing roads, as well as talents in other technical areas. It seems that the Government has ignored all these and resolutely changed all secondary schools into grammar schools. Under the circumstances, students would become unemployed if they do not enrol in sub-degree programmes or undergraduate courses after graduation from secondary schools. What should they do? That is a big problem. Considering the changes of the times, I hope the Secretary can make use of the opportunity which I mentioned earlier.

Today, I want to point out that no great problems will arise to re-introduce vocational education in secondary schools. Why? Let me repeat once again, diverting students at an early stage will be beneficial to the allocation of human resources in Hong Kong. The reason is that students can identify the careers suitable for them at an early stage. That is what Dr CHIANG Lai-wan described as career and life planning.

In fact, I had career and life planning at a very young age. I chose to study in a vocational secondary school and I had career planning after graduation. A system was in place back then. If the mechanism of Qualifications Framework was established then, I would know which level I would attain after graduation from vocational secondary school. According to this table of Qualifications Framework which I have with me, I would obtain a professional certificate. If I pursue further studies, I would get a diploma, a higher diploma and even an undergraduate degree. Hence, I would have an idea about the prospect of career development in my field. For example, I can be promoted from a technician to a senior technician and there is a chance for me to become a professional. That is the advantage of having the Qualifications Framework.

It seems that we have neglected the fact that the service industry is the only industry left in Hong Kong now. Nevertheless, there are many types of services, not only monetary and retail services. How should we utilize the Qualifications Framework? I hope the Secretary can make good use of it, incorporate it into secondary or even tertiary education and review how it can complement vocational education. This may help to avoid a mismatch of manpower in Hong Kong.

President, let me briefly explain what the Qualifications Framework is. Shortly after I became a Member of the Legislative Council, I participated in the scrutiny of the bill concerning the Qualifications Framework. More than seven years have passed unnoticeably after the bill was enacted. Some people do not think there is any problem because they do not understand what the Qualifications Framework is. Some others think that the Qualifications Framework helps people who do not have any qualifications obtain certain qualifications. In fact, they are completely wrong. The Qualifications Framework is divided into seven levels, from the most basic level of having a certificate to having a doctorate degree. I am not sure whether one has to obtain a doctorate degree before one can become Vice-Chancellor of a university, but I do know that one will be qualified at the seventh level with a doctorate degree, and the first level with a certificate. Since the levels in the Qualifications Framework are clearly set, young people and their parents will know what level of work they can do after they have completed their studies to obtain a certain level in the Framework. This will give them hope. When the Qualifications Framework is complemented with vocational education, young people can anticipate their future or promotion pathways and this will give them realistic aspirations. That is exactly one of the advantages of the Qualifications Framework.

Another advantage of the Qualifications Framework is that it clearly lists out the core competencies required of different trades. For example, after I have obtained qualifications at Level 5, I will be qualified to do five kinds of work at that level in the trade. If I have only obtained qualifications at Level 1, I will be qualified to do three kinds of work in the trade. If I have obtained qualifications at Level 7, I will be an expert who will be qualified to do 10 kinds of work. Hence, employers, employees and even customers will have confidence. If my certificate clearly states that I am qualified at Level 7, customers will know that I can provide them with certain types of services and they will be assured that the services provided will be value for money. If I have only obtained qualifications at Level 1, the standard of my services will only be up to that level. If there is good career and life planning and various arrangements are made, for example, internship mentioned by Dr CHIANG Lai-wan (which is actually nothing new and we call it service learning), students can learn in practice and that is very important.

President, I wonder if you remember that there was a system of apprenticeship when we were young. Back then, there were sandwich courses offered by the Hong Kong Polytechnic and other technical institutes. Students

would study in the first year, have training internship in the second and return to the education institution to study again in the third year. This mode of study is what we call service learning now. Service learning, that is, what Dr CHIANG Lai-wan called internship, is very common in the education sector. The arrangement allows students to put their knowledge acquired in vocational education into practice. Certainly, we need merchants, manufacturers and other persons in the manufacturing industry to work together to give students practical training. There are internship opportunities not only in the craft sector, but also in nursing and the legal profession. After completing internship, students will return to their education institutions to study. They will be clear about the qualifications they would obtain after graduation. Since their competencies will be recognized, as I said earlier, everyone will know what kind of work they can undertake. That is the advantage of having the Qualifications Framework. I hope the Secretary will make good use of it and help young people and "monster parents" in Hong Kong understand the benefits of vocational education and that there will be opportunities and hope in the future even if students do not study in secondary grammar schools and universities.

In fact, there is a variety of trades and industries in Hong Kong, for example, the service industry, the manufacturing industry and the building industry, and so on. Bridge builders, road workers, steel fixers and construction workers can obtain certification of their skills under the Qualifications Framework. Finally, I have to mention one other advantage of the Qualifications Framework and that is, work experience can be recognized through assessment of core competencies. For example, an iron-fixer can be assessed whether his skills have reached the level of a master worker, that is, Level 6. He would know that when he has reached that level, an employer would be willing to employ him as a craftsman or a master worker and there will be standards in determining the wages. If I was a young person in my thirties (which I certainly am not) and my skills had reached the standards of a master worker, I might pursue a degree programme and obtain a master's degree, then I would obtain a qualification at Level 6 which is impressive. After the experiences of workers have been recognized by the Qualifications Framework, workers can be classified clearly to fill different positions.

President, I have made an attempt to amend Dr CHIANG Lai-wan's motion today by incorporating the concept of the Qualifications Framework in it. I think the Secretary should complement vocational education with the

Qualifications Framework, so that young people of Hong Kong will know that there are prospects and career progression pathways in their trades and industries. With the Qualifications Framework, young people would be clear that they can choose to receive vocational education in secondary schools, tertiary institutions or when they pursue continuing education in the future. Since their qualifications would be recognized under the Qualifications Framework, there would be prospect and hope for them. That is a necessary step which Hong Kong should take in the future to train talents. Thank you, President.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at 8.03 pm.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENT**

The Secretary for Home Affairs requested the following post-meeting amendment in respect of a supplementary question to Question 3

Lines 4 and 5, third paragraph, page 32 of the Confirmed version

To amend "For example, after the Tsing Ma Bridge was struck by a vessel, members of the public have urged the Government to provide an alternative road link." as "For example, after the Kap Shui Mun Bridge was struck by a vessel, members of the public have urged the Government to provide an alternative road link." (Translation)

(Please refer to lines 6 to 8, first paragraph, page 1274 of this Translated version)